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Special theme: "Climate change, biocultural diversity and livelihoods: the stewardship role of indigenous peoples and new challenges"

Implementation of the recommendations on the six mandated areas of the Permanent Forum and on the Millennium Development Goals

Report of the Inter-Agency Support Group on Indigenous Issues

Submitted by the secretariat of the Convention on Biological Diversity

Summary

The 2007 meeting of the Inter-Agency Support Group on Indigenous Issues, held in Montreal, Canada, from 17 to 19 September, was convened and hosted by the secretariat of the Convention on Biological Diversity in accordance with its terms of reference and the practice established in 2002 of rotating the chairing of the Support Group annually among its members. The main theme of the meeting was "climate change and indigenous peoples".

* E/C.19/2008/1.



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I. Introduction

1. The 2007 meeting of the Inter-Agency Support Group on Indigenous Issues, held in Montreal, Canada, from 17 to 19 September, was convened and hosted by the secretariat of the Convention on Biological Diversity in accordance with its terms of reference and the practice established in 2002 of rotating the chairing of the Support Group annually among its members. The theme of the meeting was "climate change and indigenous peoples". Other agenda items included: follow-up of the 2006 annual meeting of the Group; coordination of international work on indicators; areas for possible inter-agency collaboration; the status of the United Nations development guidelines; an internal reflection on the sixth session of the United Nations Permanent Forum on Indigenous Issues; strengthening of working methods, member support and a revised terms of reference; and other matters. Under other matters, the members of the Group reflected on various mandates after the United Nations Declaration on the Rights of Indigenous Peoples and provided updates on agency work relevant to indigenous peoples.

2. Representatives of the following United Nations agencies, multilateral organizations and international financial organizations participated in the meeting: the United Nations University-Institute of Advanced Studies, the World Bank, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the secretariat of the Permanent Forum on Indigenous Issues, the International Fund for Agricultural Development, the International Organization for Migration, the United Nations Development Programme (UNDP), the World Intellectual Property Organization (WIPO), the United Nations Human Settlements Programme, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Labour Organization (ILO), Fondo Indígena, the United Nations Children's Fund and the Convention on Biological Diversity.

3. The Support Group regretted the absence of the Inter-American Development Bank, the United Nations Framework Convention on Climate Change, the World Health Organization and the United Nations Environment Programme from the meeting, especially given the special contributions that those organizations could make to many issues on the agenda, in particular, climate change. The Group noted the restructuring of the Inter-American Development Bank and expressed the hope that its focus on indigenous peoples' issues would be maintained and strengthened, especially given the recent adoption of the United Nations Declaration on the Rights of Indigenous Peoples.

4. The Support Group welcomed the representation of the United Nations University-Institute of Advanced Studies, which attended the annual meeting for the first time. The representative, Sam Johnston, provided an update on the development of the new United Nations University Traditional Knowledge Institute, which would be hosted by Charles Darwin University, Australia, but have close associations with other partner campuses, especially James Cook University, Australia. The Group welcomed the establishment of such an institute.

5. The following Permanent Forum members also participated in the meeting: Victoria Tauli-Corpus (Chairperson), Wilton Littlechild and Hassan Id Balkassm.

6. The present report highlights the main issues discussed and the agreements reached among the participants for follow-up. The agreements reached, including

conclusions and recommendations, are grouped according to items on the agenda of the meeting.

7. The meeting was opened by the Executive Secretary of the Convention on Biological Diversity, Ahmed Djoghla, together with the Under-Secretary-General for Economic and Social Affairs, Sha Zukang. The members of the Support Group were joined by the staff of the Convention on Biological Diversity for the opening session. The Chairperson of the Permanent Forum and the Chief of the secretariat, Elsa Stamatopoulou, also provided opening remarks. Wilton Littlechild provided an indigenous welcome to the meeting on behalf of the Cree peoples of Canada.

8. The members of the Support Group thanked Ahmed Djoghla and the Convention staff for the substantive nature and high quality preparations of the meeting as well as the efficient and friendly organizational arrangements.

9. Section II of the present report provides the statement of the Support Group on the adoption of the United Nations Declaration on the Rights of Indigenous Peoples. Section III provides a summary of the Group's discussions based on the agenda items and sets out recommendations. The annex to the report contains the revised and adopted terms of reference.

II. United Nations Declaration on the Rights of Indigenous Peoples

10. The Inter-Agency Support Group on Indigenous Peoples' Issues hails the adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the General Assembly on 13 September 2007. The Declaration sends out a clear message to the entire international community, reaffirming the human rights of the world's indigenous peoples. This landmark action of the United Nations bears political, legal, symbolic and moral significance and constitutes a crucial opportunity for the United Nations system and other inter-governmental organizations to critically reflect upon their engagement with indigenous peoples' issues and, according to article 42 of the Declaration, to promote respect for and full application of its provisions and follow-up its effectiveness. The Support Group pledges to advance the spirit and letter of the Declaration within our agencies' mandates and to ensure that the Declaration becomes a living document throughout our work.

11. The Support Group will hold an extraordinary meeting before the seventh session of the United Nations Permanent Forum on Indigenous Issues to discuss the impact of the adoption of the Declaration on the Rights of Indigenous Peoples on the work of the agencies and invites OHCHR and ILO to organize such a meeting. In preparation for that meeting, each agency is invited to prepare a paper with reflections on the implications of the adoption of the Declaration for its work. The report of the meeting will be presented to the Permanent Forum and other relevant bodies.

12. Major areas for agency work already identified by the Support Group include dissemination, capacity-building, programming, translation into indigenous languages and popularization of the Declaration.

III. Discussions and recommendations

A. Climate change¹

13. The impact of climate change on indigenous communities, their traditional knowledge and related biological diversity was of great concern to members of the Support Group. Indigenous peoples, often among the world's most marginalized and impoverished peoples, would bear the brunt of the catastrophe of climate change and, as such, provided a human face to the climate change crises. The most advanced scientific research had concluded that changes in climate would gravely harm the health of their traditional lands and waters and that many of the plants and animals upon which they depended for survival would be threatened by the immediate impacts of climate change. It was felt that such conclusions required urgent and unprecedented efforts and interventions from the global community.

14. It was noted with concern that indigenous peoples in particular regions and situations, such as the Arctic, small islands and high altitudes, low-lying lands and river deltas, semi-humid and arid lands, and especially pastoralists and semi-nomadic peoples, were experiencing accelerated climate change and should thus be considered highly vulnerable.

15. Members of the Support Group emphasized that despite such challenges, indigenous and local communities were not simply the passive victims of climate change but valuable partners in the global efforts to address the issue. It was noted that indigenous peoples were already using their traditional knowledge to address and adapt to climate change at the local level. Members of the Group believed that indigenous peoples had a great deal to contribute in designing and implementing solutions to climate change. Adaptation and mitigation measures to address climate change could be enhanced when they were informed by traditional knowledge and developed with the full and effective participation of indigenous peoples' representatives and organizations. Members of the Group reported on the various initiatives of agencies concerning indigenous peoples and climate change and considered ways and means of effective collaboration in pursuit of mutual goals.

16. Recognizing that the theme of the seventh session of the Permanent Forum would be climate change, members of the Support Group agreed to prepare a common paper on the matter, which would be presented to the Permanent Forum at its seventh session. John Scott, representing the Convention on Biological Diversity, was appointed as the coordinator of the paper.

17. It was recommended that the paper include an overview of the impact of climate change on indigenous peoples, especially the social, cultural, human rights and development impacts. The paper would also include an analysis of mitigation and adaptation issues, focusing on the challenges, threats and opportunities such measures posed for indigenous peoples. That might be enhanced through the inclusion of case studies on carbon-trading, biofuels and mono-cropping and other relevant issues, including support for traditional livelihoods. The paper could also outline elements of a common approach by the United Nations system concerning indigenous peoples, their issues and climate change and on how the Declaration

¹ Including a discussion on biofuels, mono-cropping and agricultural biodiversity (tied in with climate change adaptation and mitigation).

could provide a common framework. The Support Group paper would appear as an addendum to the present report.

18. Members of the Support Group concluded their discussions on climate change by strongly recommending that the full and effective participation of indigenous peoples and the comprehensive consideration of their issues be integrated in all work carried out by Group agencies, including in their programmes, policies and strategies. It was noted that that would be of particular importance when addressing the issues of adaptation and mitigation, as well as emerging issues, such as biofuels.

B. Regional level

19. The Support Group noted that there were currently a number of positive opportunities for engagement on indigenous issues within the intergovernmental system at the regional level, especially in the African region. It reiterated its commitment to cooperate and strategize at the regional level for positive outcomes in that regard. Group cooperation and common projects at the regional level could draw from the Group's own recommendations at its 2005 annual meeting devoted to that issue, the Plan of Action of the Second International Decade of the World's Indigenous People and the recommendations of the Permanent Forum resulting from its region-specific discussions.² It was agreed that a method of advancing inter-agency cooperation on indigenous peoples' issues at the regional level could be through the creation of regional e-mail groups within the Group. OHCHR offered to initiate Group discussion on the possibility of the Group's strategizing and promoting a regional approach.

C. Follow-up to 2006 recommendations

20. The Support Group noted the fact that a satisfactory follow-up to its 2006 recommendations was provided by its member agencies.

D. Indicators

21. The Support Group noted the rich ongoing work being carried out by various agencies on indicators relating to indigenous peoples' well-being and poverty, namely the secretariat of the Permanent Forum, the secretariat of the Convention on Biological Diversity, UNESCO and ILO. The Group acknowledged the desirability of both global indicators that capture indigenous realities and the establishment of system indicators to measure progress within the international system.

22. The Support Group, in order to support United Nations country teams and in view of the adoption of the Declaration on the Rights of Indigenous Peoples and the upcoming adoption of the United Nations Development Group guidelines on indigenous peoples' issues, decided to promote the adoption and use of provisional

² At its fifth session, in 2006, the Permanent Forum held a specific discussion on Africa and at its sixth session, in 2007, the Forum held a discussion on Asia. Other region-specific discussions of the Forum will be held during subsequent sessions. The recommendations of the Forum on Africa and Asia are contained in documents E/2006/43 and E/2007/43, respectively.

indicators resulting from current collaboration between indigenous peoples and international organizations, for testing, as appropriate.

E. Funds

23. Given the existence of a number of United Nations system funds that can be accessed directly by indigenous peoples' organizations, the Support Group invites the secretariat of the Permanent Forum to create a web page regarding those funds on its website and encourages Group members and others to forward information on funding opportunities to the secretariat of the Forum for collation and display. The web page should list the funds with relevant contact information and/or provide a link supplemented by a brief description of the purpose of each fund.³

24. Given the complexity of administering indigenous issues-related funds, the Support Group recommended that a meeting be organized among relevant agency focal points dealing with funds to exchange experiences and lessons learned.

F. United Nations Development Group

25. The Support Group recognizes the efforts of its members in fulfilling its mandate regarding the United Nations development guidelines. The work of the United Nations Development Group Task Team on Indigenous Issues in preparing guidelines for United Nations country teams is particularly appreciated. The Support Group looks forward to the adoption of the guidelines by the United Nations Development Group by the end of the year, as well as the action plan for their implementation. It will continue to pursue work through the United Nations Development Group to promote the operationalization of indigenous-related programmes and policies at the field level.

26. The Support Group suggests that the Task Team on Indigenous Issues consider sending its draft guidelines to a selection of "One UN" pilot United Nations country teams for review and feedback, in addition to the eight country teams that have already been selected. Support Group agencies with field presence are willing to support the Task Team by contacting their country office focal points so that they may alert the United Nations Resident Coordinators' Offices and ensure that the country teams provide timely feedback on the draft guidelines.

27. The Support Group recommends that the guidelines on indigenous issues include the full text of the United Nations Declaration on the Rights of Indigenous Peoples in an annex and that the Task Team produce a CD-ROM containing a resource kit and other relevant resources, tools and manuals to supplement the guidelines. The resource kit should include a selection of the most relevant instruments and documents cited as references in the text, as well as agencies' policies on indigenous issues.

³ Such information has already been included in the website of the secretariat of the Permanent Forum (www.un.org/esa/socdev/unpfii).

G. Follow-up on the recommendations of the Expert Group Meeting on Urban Indigenous Peoples and Migration, Santiago, 27 to 29 March 2007

28. The recommendations made by the participants in the Expert Group Meeting⁴ to the international community, including the United Nations, included an invitation to the co-organizers of the Meeting to consider the elaboration of guidelines for Governments and local authorities to assist in the development of public policies related to indigenous peoples and their challenges faced in urban areas. The United Nations Human Settlements Programme will take the lead on developing the requested guidelines in collaboration with the other co-organizers pending the availability of funding.

H. Other matters: migration

29. After an in-depth discussion on migration and indigenous peoples and current international structures dealing with migration, such as the Global Migration Group, the members of the Support Group from agencies with an interest in the issue of indigenous peoples and migration decided to establish a migration contact group within the Support Group so as to identify relevant ongoing work within individual agencies and to strategize on how to raise the specific issues of indigenous peoples within the migration debate. The representative from the International Organization on Migration was appointed as the convenor of the contact group.

I. Reflecting on the sixth session of the United Nations Permanent Forum on Indigenous Issues

30. The members of the Support Group stand ready to assist the members of the Permanent Forum throughout the process of drafting recommendations, with the goal of supporting the drafting of recommendations that are technically accurate and within the mandate of agencies, to ensure they are given due respect and effectively acted upon. The members of the Group encourage the members of the Permanent Forum to have an ongoing dialogue with Group focal points before and during the session to achieve recommendations that are effective and can be implemented.

31. Members of the Support Group emphasized that the strengthening of working methods to aid dialogue among United Nations Permanent Forum on Indigenous Issues members and their portfolios is highly desirable. The portfolio system, which has been adopted by the members of the Permanent Forum, is seen as a useful mechanism for increasing communication between the Group, the international system and the members and participants at the sessions of the Forum. Communication and collaboration is best achieved when members of the Forum can draw fully from focused agency documents within their portfolios and engage in interactive dialogue with agencies.

⁴ The Expert Group Meeting on Urban Indigenous Peoples and Migration was an activity of the United Nations Housing Rights Programme, co-organized by the United Nations Human Settlements Programme, the secretariat of the Permanent Forum and the Latin American and Caribbean Demographic Centre (CELADE)-Economic Commission for Latin America and the Caribbean, in cooperation with the International Organization for Migration.

32. Regional meetings of the Permanent Forum may assist with costs and access by indigenous peoples, as well as promoting indigenous issues within certain regions.

33. Member visits and bilateral strengthening of relationships will be beneficial for the Permanent Forum and are highly desirable.

34. The Support Group recognizes the need to provide greater time for thematic discussions during the sessions of the Permanent Forum and suggests that consideration be given to the possible submission of agency reports on a periodic basis. A periodic reporting system may help to promote a deeper and more effective dialogue, with the participation of indigenous peoples.

35. The members of the Support Group committed themselves to provide focused and concise reports and to encourage and contribute towards interactive and deep dialogue to advance issues relevant to indigenous peoples and the Permanent Forum.

J. Strengthening of working methods, member support and a revised terms of reference of the Inter-Agency Support Group on Indigenous Issues

36. Members of the Support Group reviewed and revised the terms of reference of the Group and, in doing so, provided further suggestions on the drafting and approved the amendments. The updated and adopted revised terms of reference are contained in the annex to the present report. Significantly, the terms of reference have been revised to include the term "indigenous peoples" in the name of the Support Group, reflecting the Group's commitment to the full and effective implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

Annex

Terms of reference of the United Nations Inter-Agency Support Group on Indigenous Peoples' Issues

(Revised and adopted on 19 September 2007)

Purpose

1. The Inter-Agency Support Group is a mechanism for international cooperation on indigenous peoples' issues in relation to the United Nations Permanent Forum on Indigenous Issues,^a programmes and mechanisms and other intergovernmental bodies' and entities on indigenous peoples' issues.

Membership of the Inter-Agency Support Group

2. The Inter-Agency Support Group shall be composed of focal points/units or representatives as identified by Heads of the departments or intergovernmental organizations, within the international system, whose work is relevant to indigenous peoples and their issues.

3. Representatives should have broad knowledge and experience of the United Nations system and of activities concerning indigenous peoples' issues within their organizations.

4. Membership in the group implies a commitment to participate regularly and to share information in a timely fashion to enable and facilitate coordination and cooperation.

Terms of reference

5. The Inter-Agency Support Group shall:

(a) Provide an opportunity for the focal points, units or representatives of its members to meet regularly to exchange information in relation to their work on indigenous peoples' issues;

(b) Consider ways of strengthening cooperation among its members to promote the human rights and well-being of indigenous peoples through joint activities and other forms of cooperation;

^a The Permanent Forum on Indigenous Issues is an advisory body of independent experts reporting to the Economic and Social Council on all matters within the mandate of the Council and was established by the Council in its resolution 2000/22. The General Assembly, in its resolution 57/191, entitled "Permanent Forum on Indigenous Issues", explicitly referred to the Inter-Agency Support Group and invited the organizations and bodies of the United Nations system, including the Support Group, other relevant international and regional organizations and bodies, and indigenous peoples to assist the Forum in carrying out its mandate as enumerated in paragraph 2 of Council resolution 2000/22, including through the provision of staff.

(c) Analyse recommendations of the United Nations Permanent Forum on Indigenous Issues and contribute to their implementation on the basis of the mandates, resources and capacity of each organization;

(d) Develop relationships with Governments, donors, civil society organizations, indigenous peoples' organizations and others to consider cooperative ways of supporting the United Nations Permanent Forum on Indigenous Issues;

(e) Interact with the United Nations Permanent Forum on Indigenous Issues and its members to provide and seek information, advice and substantive inputs;

(f) Advise and assist in the mainstreaming of indigenous peoples' issues within the international system;

(g) Strengthen mutual support for the focal points/units or representatives in each of the agencies, organizations, programmes and entities participating in the Inter-Agency Support Group.

Methods of operation

6. The Inter-Agency Support Group shall meet at least once a year for a substantive meeting, with follow-up meetings as necessary.

7. The chair of the Inter-Agency Support Group rotates through the member organizations, bodies and entities on an annual basis. The chair is responsible for the hosting, convening and facilitation of an annual Support Group meeting.

8. The secretariat of the United Nations Permanent Forum on Indigenous Issues^b provides support and continuity to the chair and Inter-Agency Support Group as required.

9. The Inter-Agency Support Group will invite members of the United Nations Permanent Forum on Indigenous Issues as contributors to the discussions.

10. The Inter-Agency Support Group may invite, on an ad hoc basis, experts, non-governmental organizations and other entities whose work may contribute to the work of the Support Group, as observers and contributors to its discussions. These invited contributors would be able to attend such parts of the inter-agency meetings as may be decided by the rotating chair of the Support Group, after consulting with other members of the Support Group.

11. The Inter-Agency Support Group members participating in the annual Support Group meeting are responsible for covering their own costs in relation to meetings.

12. The Inter-Agency Support Group shall keep a record of proceedings.

^b Recalling the mandate of the United Nations Permanent Forum on Indigenous Issues, which includes to "promote coordination of activities related to indigenous issues within the United Nations system".



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Permanent Forum on Indigenous Issues

Seventh session

New York, 21 April-2 May 2008

Items 4 and 7 of the provisional agenda*

**Implementation of the recommendations on the six
mandated areas of the Permanent Forum and on the
Millennium Development Goals**

Half-day discussion on indigenous languages

Forms of education of indigenous children as crimes against humanity?

**Expert paper prepared for the Permanent Forum on
Indigenous Issues****

* E/C.19/2008/1.

** The present expert paper was submitted by Robert Dunbar, Reader in Law and Celtic, The University of Aberdeen, United Kingdom, and Dr. Tove Skutnabb-Kangas, Åbo Akademi University Vasa, Finland, in collaboration with Lars-Anders Baer, current member, and Ole Henrik Magga, former member and Chair of the Permanent Forum. It is a sequel to the expert paper on indigenous children's education and indigenous languages (E/C.10/2005/7) submitted by Ole Henrik Magga, Ida Nicolaisen, Mililani Trask, Robert Dunbar and Tove Skutnabb-Kangas.



I. Introduction¹

1. State education policies very frequently force indigenous children whose mother tongue is an indigenous language² into education through the medium of the dominant state language.
2. Firstly, these policies play an important role in the process of language shift. One effect is on the indigenous *languages themselves*; they are underdeveloped in more formal areas because they are not used in school. Another effect is on *attitudes*: children and parents tend to start believing that their language is worth less than the dominant language. This has a strongly negative influence on the *use* of indigenous languages. Language, culture, customs and traditions have to be lived and taught to be learned. If children are not surrounded by at least some adults and elders from their own group who (are allowed to) teach them their language, stories, customs, traditions, also in school, these will not be learned proficiently. And if the children are not proficient in their language, the likelihood of them transferring it to their own children is seriously diminished.
3. Secondly, the harmful consequences of the use of the dominant state language as the only language of instruction in schools are much more extensive. The use of the children's language has often been either overtly or covertly forbidden. Not allowing children to learn their language, or preventing them from using it through separation from grown-up proficient users, means 'prohibiting the use of the language of the group in daily intercourse or in schools' (see Section 3). This separation, most obvious when children have been removed from home and placed in residential schools, also occurs when all or most of the teachers come from the dominant group and do not speak the indigenous language. Such policies have often resulted not only in serious physical harm but also in very serious mental harm: social dislocation, psychological, cognitive, linguistic and educational harm, and, partially through this, also economic, social and political marginalization. Quoting studies and statistics from the USA, Teresa McCarty writes about the consequences of "medium-of-instruction policies" (2003: 74):
4. Indigenous and other minority students experience the lowest rates of educational attainment, the lowest family incomes, and, particularly among Indigenous youth, the highest rates of depression and teen suicides.
5. It is now clear that governments are often aware of these and other adverse effects of forcing indigenous children to be educated through the medium of the dominant language. That States persist in such policies, given such knowledge, has been described as a form of linguistic and/or cultural genocide, or, in the words of Rodolfo Stavenhagen 1990, 1995), "ethnocide". Here we consider the possibility that such policies, implemented in the full knowledge of their devastating effects,

¹ We have omitted many examples from the present short version; for the long version, which contains the references, send an e-mail to toskutnabbkangas@gmail.com. References are also available from <http://www.samiskhs.no/eng/ToveSkutnabbKangas.htm>.

² We fully endorse footnote 2 in the document of the United Nations Educational, Scientific and Cultural Organization entitled "Language, vitality and endangerment", which reads: "Throughout this document, the term *language* includes sign languages, and *speech or endangered language communities* also refer to sign language communities". It is important to remember that indigenous peoples also include deaf individuals and communities that use sign languages as their mother tongue.

constitute international crimes, including genocide, within the meaning of the United Nations' 1948 *Convention on the Prevention and Punishment of the Crime of Genocide*³ (the "Genocide Convention"), or a crime against humanity.

6. In our earlier Expert paper (Magga et al., 2004) we argued that mainly dominant-language medium education for indigenous and minority children can and does have extremely negative consequences for the achievement of goals deduced from central human rights instruments and especially for the right to education. Using the interpretations of former United Nations Special Rapporteur on the Right to Education, Katarina Tomaševski's, we showed that this dominant-language medium education prevents access to education, because of the linguistic, pedagogical and psychological barriers it creates. Without binding educational linguistic human rights, especially a right to mainly mother tongue-medium (MTM) education in state schools, with good teaching of a dominant language as a second language, given by competent bilingual teachers, most indigenous peoples and minorities have to accept *subtractive* education where they learn a dominant language *at the cost of the mother tongue* which is displaced, and later often replaced by the dominant language. Children undergoing subtractive education, or at least *their* children, are effectively transferred to the dominant group linguistically and culturally. At a community level, this often leads to their own languages first becoming endangered, when the intergenerational transfer from parent generation to the children's generation is interrupted; later it may lead to the extinction of indigenous languages. This contributes to the disappearance of the world's linguistic diversity. The shift is not, we argued, voluntary, if alternatives do not exist and if parents do not have enough solid research-based knowledge about the long-term consequences of their "choices".

7. Research conclusions about results of present-day indigenous and minority education show that the length of mother tongue medium education is more important than any other factor (including socio-economic status) in predicting the educational success of bilingual students, including their competence in the dominant language (e.g. Thomas & Collier 2002). Today's indigenous and minority education is organized contrary to solid research evidence about how best to reach high levels of bilingualism or multilingualism and how to enable these children to achieve academically in school. Dominant-language medium education for indigenous children often curtails the development of the children's capabilities, perpetuates poverty, and causes serious mental harm.

8. In this paper, we explore the extent to which the deliberate pursuit of such policies can and should be considered to be criminal, within the categories currently provided in international law.

³ E793, 1948; 78 U.N.T.S. 277, entered into force Jan. 12, 1951; for the full text, see <http://www1.umn.edu/humanrts/instrtree/xlcppcg.htm>.

II. The nature and effects of dominant language-medium education - sociological and educational insights

A. The importance of language

9. We start with quotes containing examples of how indigenous peoples and minorities have themselves understood the "destruction" of their languages, cultures and identities, and of them as peoples, and the relationship between physical and linguistic/cultural destruction.

Example 1

10. *'Our language is dying, that is the first sign of deterioration. Our native style of life has to be based on four elements - heritage, culture, values, language - and if you take one away it begins to break down. Then we have the symptoms of this breakdown, alcoholism and abuse' (Randy Councillor, Ojibway, director of a detoxification centre in Ontario, Canada, himself an earlier 'street-drunk', in Richardson 1993: 25. "The voice of the land is in our language" (National First Nations Elders/Language Gathering, Mi'gmaq Nation, Canada).*

11. Before embarking on the legal argumentation, we present ways of using force in subtractive education, and some negative educational and sociological consequences of it. Subtractive education—teaching (some of) the dominant language at the cost of the mother tongue and thus subtracting from the children's linguistic competence⁴ — is assimilationist (see Skutnabb-Kangas, 2000). It may often directly inflict or cause physical harm and does inflict serious mental harm and very serious psychological, linguistic, cognitive, educational, social (including health-related) and economic damage. Such damage can be permanent: the consequences of most of these types of damage may follow indigenous peoples throughout their lives.

B. Force as means in indigenous education: "sticks", "carrots" and ideas

12. From a sociological – educational point of view, we use peace researcher Johan Galtung's (1980) differentiation between three forms of force: power-holders can use "sticks", "carrots" or "ideas" to accomplish the same goal.

13. Taking children away from the parents with the use of physical force, physically punishing them, or depriving them of food because they have used their own language are examples of the use of "sticks".

14. "Carrots" were used when teachers in Norway could from 1851 up to the 1920s "get a supplement to their salary if they could document good results in linguistic Norwegianisation of Saami and Kven children; likewise poor parents and children could get grants for food and clothing for showing 'positive attitudes', i.e. learning and using Norwegian, at the cost of their own languages (Eriksen & Niemi 1981: 48, 53). *Positive reinforcement of the dominant language* ('carrots') was used

⁴ Instead, children should have additive education where they learn their mother tongues well, in addition to learning a dominant language (and other languages) well too.

simultaneously with *negative reinforcement of the mother tongue*" (Skutnabb-Kangas & Phillipson 1989: 31).

Example 2

15. *In the Saami and Finnish speaking areas in Norway, radio licences were cheaper than in the rest of Norway. The programmes were of course in Norwegian only. In both Norway and Sweden, books, newspapers and journals in Norwegian/Swedish were distributed free of charge in these areas while there were severe restrictions on importing books in Finnish; these were seen as unpatriotic literature. The overt prohibition of buying Finnish books was in force in Sweden until 1957 in the library of Torneå, the border city between Finland and Sweden.*

16. The use of ideas will be elaborated in Section 3.

17. The psychological separation from one's language, culture and ethnic identity and possible transfer to another language, culture and identity has often been connected with (temporal or permanent) physical separation from one's own group (i.e. "sticks"). The mandatory use by States of residential schools and similar institutions has involved the removal of indigenous children from their homes and their native communities, their transfer to institutions that were usually very far from their homes and communities - and in some cases, to families of the dominant community.

Example 3

18. *Both in the USA and in Canada it was clear that many of the schools were much further away than they needed to be. The explanation often was that they were mission schools, and 'we were sent to Moose Factory in Ontario because we were Anglicans, and the Anglicans had residences for Indian kids only from Ontario to B.B.' (Buckley Petawabano, a Cree man from Mistissini reserve in northern Quebec, quoted in Richardson 1993: 107). Thus, first indigenous peoples were forced to accept the divisions within Christianity which meant nothing to them (they were made 'Anglicans'), and then they were punished for it. Sometimes the children were flown thousands of miles away.*

19. Children in submersion education were often allowed to return physically to their communities, both at school break times and upon the completion of such education. But there are many examples of the return being conditional and the state representatives trying to prevent it, sometimes permanently. The wish to remove children from the influence of the parents is by no means over – we have many present-day examples.

C. Educational, social, physical and psychological consequences of submersion education

20. The use of physical separation and other assimilationist "sticks" can and do have very harmful psychological, cognitive, linguistic and educational effects and lead to a destruction of the group's language and culture. Here we mention examples of (1) negative educational consequences of subtractive education, in terms of achievement and outcomes; these were discussed in depth in our

first Expert paper. Then we present examples of (2) negative socio-economic and other social consequences (e.g. higher levels of unemployment, lower incomes, economic and social marginalisation, alienation, mental illness). Next come (3) negative physical consequences which can flow from (2), including alcoholism, incest, suicide, violent death rates, and so forth. We also exemplify (4) negative psychological consequences, with particular reference to the devastation caused by residential schools. Many children also lose their language during and because of the educational process, completely or partially, both in residential schools but also in day schools, sometimes even in one generation.

Example 4

21. *"For nearly a hundred years the policy of the United States government was to acculturate the Navajo, so that the Navajo could be assimilated into the White society. To effect this assimilation Navajo children were taken from the shelter of the family and sent to boarding school. Almost every child who entered the boarding school spoke only Navajo, and most of the people employed at the boarding schools spoke only English. When a Navajo child spoke the language of his family at school, he was punished" (Platero 1975: 57).*

22. There are thousands of similar examples from all over the world. The question is NOT whether children are in residential schools or not. The main issue is to what extent the goal of the school is to enable the children to add to their linguistic repertoire instead of subtracting from it, to become high-level bilingual, with maintenance and thorough development of their own language as a self-evident goal, but adding a high competence in the dominant language too. Instead, assimilationist subtractive education has been and is still the most common way of educating both hearing and deaf indigenous and minority children. Even in transitional day school programmes, especially transitional early-exit programmes, where the children start with their own language as the teaching language but are transferred to dominant language medium teaching as soon as they have some spoken command of that language, their competence in the mother tongue remains in most cases extremely poor. Thus they cannot use it in their home as adults or transfer it to their own children. The linguistic assimilation caused by education means that the children or grandchildren of these victims do not learn the mother tongue. They have thus been forcibly transferred to another group linguistically.

23. In addition to establishing that indigenous children who have been subject to subtractive dominant language medium education, particularly in residential schools, have been caused serious educational and other mental harm, it must also be established that such mental harm is the result of the education they have received. This may not always be easy to establish because Indigenous children often suffer a wide range of very negative treatments, both inside and outside the school. Still, there is a strong consensus in educational, linguistic, psychological and sociological studies that this is the case. Schooling, in addition to migration, is explored as one of the important causal factors in language loss in many of the articles in Maffi, ed. (2001).

24. Tsui and Tollefson conclude the following in their 2004 edited book *Medium of Instruction Policies*, on the basis of worldwide studies: the use of a foreign language as the medium of instruction for children who are still struggling with basic expression in that language hampers not only their

academic achievement and cognitive growth, but also their self-perception, self-esteem, emotional security, and their ability to participate meaningfully in the educational process (2004: 17).

25. It is very clear from many studies that the length of mother tongue medium education is more important than any other factor in predicting the educational success of bilingual students. It is also much more important than socio-economic status, something extremely vital in relation to dominated/oppressed Indigenous and minority students. The worst educational results are even today with students in regular submersion programmes where the students' mother tongues (L1s) are either not supported at all or where they only had some mother-tongue-as-a-subject instruction. Dominant-language-only submersion programmes "are widely attested as the least effective educationally for minority language students" (May & Hill 2003: 14, study commissioned by the Māori Section of the Aotearoa/New Zealand Ministry of Education⁵). Thomas & Collier (2002:7) state in the conclusions of their massive study of various forms of Spanish-English bilingual education (some 210,000 students) that "the strongest predictor of L2 student achievement is the amount of formal L1 schooling. The more L1 grade-level schooling, the higher L2 achievement". Thus it is clear that submersion education is the most important causal factor in indigenous students educational failure.

26. Most statistics about indigenous peoples show that they are socio-economically marginalised. Even if the marginalisation is a result of multiple historical, geographic, social, political, cultural, linguistic and educational factors, in most cases connected to earlier or present colonisation, today formal education and especially subtractive education, the use of a dominant non-indigenous language as the teaching language (together with non-indigenous curricula and teaching methods) play an increasingly important role in reproducing the powerless economic and political status of indigenous peoples.

27. Examples abound from all over the world of indigenous and minority children having experienced serious physical punishment (both in residential and in day schools), lack of food, sexual abuse, and so forth - some examples will be given later. The economic marginalisation reproduced by education in its turn often results in direct physical harmful consequences in terms of health-related issues: no or lacking maternity care, high infant mortality, under-nourishment, dangerous work (e.g. mines, logging, chemicals in agriculture) or unemployment, child labour, poor housing and health care. Health and other physical effects from alcoholism, abuse of women and children in families, incest, and overrepresentation in suicide and crime statistics are also instances of serious physical harm. In several countries the education system, especially the residential schools, have been squarely shown to be a direct and important, often the main causal factor in this harm (see, e.g. Milloy 1999, Richardson 1993, for Canada, Churchill 1997, Crawford 1995, 1996, Costo & Costo (eds) 1987, Cahn & Hearne 1969, McCarty (ed) 2005, for the USA, Amery 1998, Jordan 1986, Fesl 1993 for Australia, Bryld 1998, for Greenland, Lind Meløy 1980, Eriksen & Niemi 1981 for Norway, Lundemark 1980 for Sweden).

28. Often education has caused both physical and mental harm. It is often difficult to judge which one has been more traumatising. Residential schools have been "arguably, the most damaging of the many

⁵ <http://www.minedu.govt.nz/>.

elements of Canada's colonization of this land's original peoples and, as their consequences still affect the lives of Aboriginal people today, they remain so" (Milloy, 1999: xiv). Deirdre Jordan (1988: 190) who compared the impact of formal education on identity among the Australian Aboriginal peoples, the Saami in Norway, and Inuits in Greenland and Canada, claims that

... history shows that it was not only forces springing from economic bases, and the exploitation of material resources, which, breaking the nexus of indigenous people with their land, acted to destroy their culture and substitute for a positive identity the negative traits with which indigenous people have come to be stereotyped. One of the crucial forces which has acted to destroy the identity and the culture of indigenous people has been that of schooling.

29. Many children who have suffered such education are permanently alienated from both their native language and culture and their families and home communities.

Example 5

30. *Kee was sent to boarding school as a child where – as was the practice – he was punished for speaking Navajo. Since he was only allowed to return home during Christmas and summer, he lost contact with his family. Kee withdrew both from the White and Navajo worlds as he grew older, because he could not comfortably communicate in either language. He became one of the many thousand Navajos who were non-lingual – a man without a language. By the time he was 16, Kee was an alcoholic, uneducated and despondent – without identity. Kee's story is more the rule than the exception.*" (Platero 1975: 57, 58).

31. There are countless examples from many parts of the world from the early and mid-1800s onwards and up to the mid-1900s and even longer where the intention to destroy an indigenous group as a group/a nation/a people (physically or in other ways) has earlier been overtly expressed. Barrington (1992: 69) writes about Māori education in Aotearoa/New Zealand before 1950 that the aim of the educational assimilation was "to lift Māori from one society to another". The Māori were prepared through education to change life-style completely, to become farmers, like the colonisers were (see Simon, ed., 1998). The same official goal was openly expressed in the Canadian residential schools where the aim was "to get rid of the Indian problem [...] Our objective is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic, and there is no Indian question, and no Indian Department" (Duncan Campbell Scott before a Parliamentary Committee in 1920, quoted in Milloy 1999: 46).

32. For obvious reasons, no state or educational authority can today be expected to express *openly* an intention to "destroy" a group or even to "seriously harm" it or to "transfer its members to another group". However, the intention can be inferred in other ways, by analysing those structural and ideological factors and those practices which cause the destruction, harm or transfer. We have done this in several ways, comparing with the older more overt ways. We claim that if state school authorities continue an educational policy which uses a dominant language as the main medium of education for indigenous and minority children, when the negative results of this policy have been

known both through earlier concrete empirical feedback (as in Canada and the United States, see Example 6 below) and through solid theoretical and empirical research evidence (as they have, at least since the early 1950s; see, e.g., UNESCO 1953; see also our first Expert paper, Magga et al. 2004), this refusal to change the policies constitutes, from discourse analytical, sociolinguistic, sociological and political scientific, and educational policy analysis perspectives, strong evidence for an "intention".

Example 6

33. In Canada, "for most of school system's life, though the truth was known to it", the Department of Indian Affairs, "after nearly a century of contrary evidence in its own files", still "maintained the fiction of care" and "contended that the schools were 'operated for the welfare and education of Indian children'" (Milloy 1999: xiii-xiv). These schools represented "a system of persistent neglect and debilitating abuse", "violent in its intention to 'kill the Indian' in the child for the sake of Christian civilization" (ibid.: xiv; xv). Finally closed down in 1986, the Department and the churches "fully aware of the fact" that the schools "unfitted many children, abused or not, for life in either Aboriginal or non-Aboriginal communities. The schools produced thousands of individuals incapable of leading healthy lives or contributing positively to their communities" (ibid.: xvii).

III. Genocide

34. We have shown that education through the medium of the dominant language for indigenous children has extremely harmful consequences for them. We have also shown that such education tends to be highly assimilative; this has contributed significantly to the destruction of indigenous languages and cultures.

35. This destruction has frequently been referred to as cultural genocide. Rafael Lemkin, who conceived of the term genocide, was of the view that it should encompass not only the physical destruction of what he termed "national groups", but also "the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves", and he made reference to the "disintegration of the political and social institutions of culture, language, national feelings, religion and the economic existence of national groups" (Lemkin, 1944: 79; emphasis added). The concept of cultural genocide was considered at length during the drafting of the Genocide Convention. Indeed, in the initial draft of the Division of Human Rights of the United Nations Secretariat,⁶ acts of genocide (itself defined in the preamble as "the intentional destruction of a group of human beings") were divided into three categories, physical, biological, and cultural. This third category involved "destroying the specific characteristics of the group", and made further reference to the following:

- a. the forcible transfer of children to another human group; or
- b. the forced and systematic exile of individuals representing the culture of a group; or
- c. the prohibition on the use of the national language even in private intercourse; or

⁶ UN Doc. E/447.

- d. the systematic destruction of books printed in the national language or of religious works or prohibition of new publications; or
- e. the systematic destruction of historical or religious monuments or their diversion to alien uses, destruction or dispersion of documents and objects of historical, artistic, or religious value and of objects used in religious worship.⁷

36. The concept of cultural genocide was also included in the draft prepared by the *ad hoc* drafting committee created by the UN Economic and Social Council. The Draft Article III provided that genocide also meant any deliberate act committed with the intent to destroy the language, religion, or culture of a national, racial or religious group on grounds of the national or racial origin or the religious belief of its members such as:

- a. Prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group;
- b. Destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.⁸

37. Ultimately, however, the concept of cultural genocide was not included in the Genocide Convention, in large part due to opposition from several western States. Among the justifications for this opposition were that the physical destruction of groups was more serious than the destruction of their culture, that cultural genocide could result in "spurious claims" being brought, and that the inclusion of cultural genocide could inhibit the assimilation of cultural or linguistic groups. Ironically, delegates from some countries, including the United States and Canada, were also apparently concerned that the inclusion of cultural genocide could lead to claims by indigenous groups (Sautman, 2003: 183).⁹

38. As we shall see, the exclusion of cultural genocide from the final text of the Genocide Convention has greatly restricted the application of that treaty to the sorts of policies and practices described in the previous part of this paper. However, a closer look at the Genocide Convention is nonetheless merited. International law has developed in important ways since the conclusion of the Genocide Convention in the late 1940s, particularly in respect of the protection of minorities, to the point where policies of assimilation are now at odds with relevant international standards;¹⁰ while these recent standards prohibit such policies, they do not, however, criminalise them. The Genocide Convention is itself a living instrument, and its interpretation and application may yet develop.

⁷ UN Doc. E/447.

⁸ UN Doc. E/AC.25/12.

⁹ Some parties to the deliberations on the Genocide Convention felt that the appropriate way in which to deal with policies which aim at the destruction of cultures and languages was through the development of standards of minority protection, rather than through the Genocide Convention; for a discussion of the failure of the United Nations to deal with such destruction at all, see Morsink, 1999.

¹⁰ See, for example, Article 27 of the *International Covenant on Civil and Political Rights*, or the 1992 United Nations General Assembly Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, Resolution 47/135, 18 December, 1992 (available at: http://www.unhcr.ch/html/menu3/b/d_minori.htm). At the regional level, the unacceptability of policies aimed at assimilation of minorities against their will is explicit: see Article 5, para. 2, the Council of Europe's *Framework Convention for the Protection of National Minorities* (<http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=157&CM=1&DF=2/17/2007&CL=ENG>).

39. Article II of the Genocide Convention defines genocide to mean the commission of any of the acts set out in paragraphs (a) to (e) of the article—the list is meant to be exhaustive—with the intention “to destroy, in whole or in part, a national, ethnical, racial or religious group, as such”. Although indigeneity is not specifically referred to, there can be little doubt that indigenous peoples would not be considered to be a protected group, for example on the basis of their different ethnicity, at very least. Not surprisingly, given the evolution of the convention as just outlined, most of the acts set out in paragraphs (a) to (e) concern the physical destruction of covered groups—killing of members of the group (a), causing serious bodily harm to members of the group (b), deliberately inflicting on the group conditions of life calculated to bring about its destruction (c)—or their biological destruction—imposing measures intended to prevent births within the group (d). However, there are two provisions in paragraphs (a) to (e) which fit less easily into this schema.

40. First, paragraph (b) of Article II refers not only to causing serious bodily harm to members of the group, but also to causing serious *mental* harm to them.¹¹ Second, paragraph (e) refers to “forcibly transferring children of the group to another group”. This latter provision is particularly interesting, as it was one of the acts which constituted cultural genocide in the initial draft of the Secretariat working group, described above, and did not form part of the definitions of physical or biological genocide that had been developed during the preparation of the convention. It has been noted that paragraph (e) was added to the Genocide Convention “almost as an afterthought, with little substantive debate or consideration” (Schabas 2000: 175). Likewise, the inclusion of the concept of “mental harm” under paragraph (b) was a late addition to the convention, and although it attracted more debate—and initial opposition by some States—its meaning and consequences also did not receive a great deal of attention (Schabas, 2000: 159-60).

41. With regard to Article II, paragraph (b), what constitutes causing “serious bodily or mental harm” is not altogether clear. Rape or other acts of sexual violence would appear to be covered; interestingly, it seems that the level of harm required, though high, need not be permanent.¹² There is now considerable evidence of the widespread physical brutality and acts of sexual abuse that were and are regularly inflicted in residential schools¹³—some of this evidence is presented in the first part of this paper—and if “serious bodily or mental harm” includes rape and other acts of sexual violence, there would be a strong argument that the experiences of many indigenous children in residential schools would be covered. As noted in the first part of this paper, residential schooling and other forms of subtractive education suffered by indigenous children also have had a range of longer-term physical consequences. It is less clear, however, that these effects would be covered by paragraph (b); rape and sexual violence—and the physical brutality used in residential schools—have both immediate and direct as well as longer-term effects, and the absence of immediate physical effects may be an important limitation on the applicability of the concept of “bodily harm”.

42. We have also seen that residential schooling and other forms of subtractive education have very serious mental consequences, and it would be difficult not to classify such consequences as “mental

¹¹ “Causing serious bodily or mental harm to members of the group” (emphasis added).

¹² See, for example, *Prosecutor v. Akayesu*, (Case No. ICTR-96-4-T0, Judgment 2 September, 1998, para. 731, 501.

¹³ It should be noted that, while such physical abuse are most obvious in the residential school experience, widespread physical abuse of this nature are often also present in other forms of education to which indigenous children are subjected.

harm"; indeed, as was noted in the first part of this paper, such harm does, in fact, tend to be of a permanent nature, and while, as also just noted, it is not necessary for harm to be permanent in order for it to be prohibited under paragraph (b), where such harm is permanent, this should surely strengthen the claim that it is "serious". Unfortunately, the scope of "serious mental harm" is still unclear in international law, and remains problematic (Schabas, 2000: 161). The paragraph contemplates that mental harm can exist independently of physical harm—"serious physical *or* mental harm"—and it must therefore be possible that the infliction of serious mental harm in the absence of physical harm can, potentially, constitute an act of genocide within Article II. The difficulty is that acts which have been considered to come within paragraph (b) by tribunals such as rape and sexual violence have a clear physical *as well as* mental element. Presumably, the mental trauma inflicted by a particular act must have effects that are akin to the mental trauma attendant upon rape. While it is difficult to compare different forms of extreme abuse, and without suggesting any moral equivalency between rape/sexual violence and other forms of extreme cruelty, it is clear from the sort of material presented in the first part of this paper that subtractive education, and particularly residential schooling, can have very serious and, indeed, permanent serious negative consequences for the mental health of those who have suffered them. There are therefore, in our view, strong arguments to support the contention that such education can constitute "serious mental harm".

43. The precise scope of paragraph (e) of Article II and the nature of the acts it covers are even less clear than in respect of paragraph (b). With respect to the word "transfer", for example, does the transfer have to be physical, in the sense that it involves the actual removal of children from one group and their provision to another, or would the social and cultural alienation of children from their group of origin, even if they continue to reside amongst that group, be sufficient? In order to be covered, must the transfer be permanent—the children leave the group of origin, with the intention that they never return—or is a temporary transfer for a period of time—enough to acculturate the children into another group (usually, the majority) sufficient? In many cases, residential schooling has not resulted in the permanent physical removal of indigenous children from their group of origin, although as is clear from the sort of evidence related in the first part of this article, even where children who have undergone such schooling have *physically* returned to their home communities, there is often a permanent psychic break and alienation from the culture, language and even from the family. Such education is profoundly destructive of all such links. However, what is significant is that residential schooling has often in fact resulted in a permanent physical break from the home community as well—the very sort of complete break that even the most restrictive interpretation of the paragraph might contemplate.¹⁴

44. Also unclear in paragraph (e) is the meaning of the concept of "*forcible* transfer" of children. Certainly, the use of physical force would surely constitute "forcible transfer", but what about less coercive means? It has, for example, been suggested that "*forcible* transfer" may include, but is not necessarily restricted to, threats or intimidation (Schabas, 2000: 177, quoting the discussion paper of the co-ordinator, the Preparatory Commission for the International Criminal Court). It is at least arguable that residential schooling can constitute "forcibly transferring children of the group to

¹⁴ For example, when children are subsequently put in the care of non-indigenous families, or when children never return to their families and home communities.

another group" (See, for example, The Australian Human Rights and Equal Opportunities Commission, 1997: 270-5). It is certainly the case that, as noted above, children have been physically forced to leave their homes for residential schools. However, given the overwhelming coercive power of the State that is implicit in the process of residential schooling, the actual direct use of physical force is unnecessary. This is particularly the case where the practices are so well-established that indigenous parents are resigned to the inevitability of the process. This is an example of Galtung's (1980) third form of force, use of ideas. The three processes involved (see Skutnabb-Kangas 2000) when ideas are used to force a subordinated group to accept and even contribute to the reinforcement of their subordinate position are *glorification of the dominant group*, its language, culture, norms, traditions, institutions, level of development and observance of human rights, *stigmatization and devaluation the minorities/subordinated groups*, their languages, cultures, norms, traditions, institutions, level of development, observance of human rights etc so that they are seen as traditional, backward, not able to adapt to a postmodern technological information society, and, thirdly, *rationalization of the relationship between the groups* economically, politically, psychologically, educationally, sociologically, linguistically, so that what the dominant group/s do/es always seems functional, and beneficial to the minorities/subordinated groups (the majority is "helping", "giving aid", "civilizing", "modernizing", "teaching democracy", "granting rights" and "protecting world peace. Such resignation and apparent "acceptance" of the practice, though, is always due to the huge inequality of power relationships, and often an experience of the implicit but overwhelming force of the State (Example 7).

Example 7

45. *Children (and parents) had structurally few chances of escape. In Canada compulsory attendance of all indigenous children at school was secured already in 1894, with the "added provision for 'the arrest and conveyance to school and detention there' of any children who might be prevented from attending by their parents or guardians (who, in such a case, would be liable to imprisonment)" (Richardson 1993: 101). A combination of threats and carrots was often used: 'Indian Affairs used to threaten people that if they didn't send their kids to school, they wouldn't get any welfare' (Richardson 1993: 107).*

46. This type of "manufactured consent" (Herman & Chomsky 1988) has been discussed by the French sociologist Pierre Bourdieu explicitly in relation to education, where parents internalise the inevitable and thus in many cases "accept" the legitimation for it. In addition, many parents (and children) are afraid of the force (physical, economic, political) that they know state representatives are able to use if the parents (or children) refuse to obey and participate in practices which they often know are destructive. Where such means have been employed by States to ensure the attendance of indigenous children in residential schools and similar institutions, there is a strong argument that sufficient force has been used.

47. Thus, we are of the view that, in spite of the omission of the concept of cultural genocide from the Genocide Convention, many aspects of the education of indigenous children could be considered to be acts of genocide set out in Article II, based on both paragraph (b) and (e) thereof. However, in order for there to be genocide under the Genocide Convention, the acts referred to in Article II must be

accompanied by a mental element. This intent is set out in the introductory language of Article II, namely, "the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such". It is this aspect which presents a most serious barrier to a claim against the sorts of education described in the first part of this paper under the Genocide Convention. As noted, such forms of education can and do have the effect of destroying the languages and cultures of indigenous peoples. However, such forms of education are generally not practised in the context of the attempted physical or biological destruction of indigenous peoples.¹⁵

48. The most significant difficulty is that there seems to be widespread agreement that the intention to physically or biologically destroy the group is essential to any genocide claim under the Genocide Convention. This is based on the decision to exclude "cultural genocide" from the scope of the treaty. The International Law Commission has expressed the position in the terms below.

49. As clearly shown by the preparatory work for the Convention, the destruction in question is the material destruction of a group either by physical or biological means, not the destruction of the national, linguistic, religious, cultural or other identity of a particular group. . . . [T]he text of the Convention, as prepared by the Sixth Committee and adopted by the General Assembly, did not include the concept of 'cultural genocide' contained in the two drafts and simply listed acts which come within the category of 'physical' or 'biological' genocide.¹⁶

50. However, Articles 31 and 32 of the *Vienna Convention on the Law of Treaties* provide that reference may be made to preparatory work only when the ordinary meaning of the provision, taken in context and in light of its object and purpose, render it "ambiguous or obscure". It could be argued that resort should not be had to the preparatory work, as no such ambiguity or obscurity exists. In particular, it could be argued that an understanding of the concept of "destruction" as being limited to physical destruction sits uneasily with parts of the definition of the crime in Article 2. Article 2, paragraph (b), as noted, provides that genocide means the act of causing serious bodily or mental harm with the intent to destroy the group. As already noted, serious bodily harm and serious mental harm are clearly alternatives, and therefore the causing of serious mental harm alone could potentially constitute an act of genocide. If, however, the concept of intention to destroy a group only included the intention to cause their physical destruction, it is difficult to see how the act of causing serious mental harm could ever constitute genocide, as such harm can be inflicted without the intention to cause physical destruction of the group. It is strange that a category of genocidal acts would be created that could never, by themselves, result in the commission of genocide within the meaning of the treaty.

51. Additional textual evidence is provided by paragraph (c) of Article 2, which includes among the acts of genocide that of deliberately inflicting on the group conditions of life calculated to bring about its *physical destruction*. By qualifying the concept of destruction in paragraph (c) with the word "physical", the Genocide Convention implies that the concept of "destruction" must be wider than

¹⁵ If they were, building of a claim that such education constitutes genocide would be significantly less difficult, although actual probative aspects of a genocide claim always present significant difficulties.

¹⁶ Report of the Commission to the General Assembly on the Work of its Forty-First Session, UN Doc. A/CN.4/SER.A/1989/Add.1(Part 2), p. 102, para. (4).

mere physical destruction. If “destruction” was intended to be limited to physical destruction, then there would be no need to qualify the word “destruction” in this way in paragraph 2(c). Thus, the terms of article 2 of the Genocide Convention itself require that the concept of “destruction”, as used in the chapeau in that article, is wider than mere physical destruction.

52. In spite of this, international tribunals continue to be wary of expanding the intent required for a finding of genocide beyond the physical or biological destruction of the group.¹⁷ Scholarly opinion likewise generally continues to interpret the necessary intent as being limited to the physical or biological destruction of the group. Various tribunals have found that what could be described as acts of “cultural genocide” can be relevant in establishing the specific intent to physically destroy the protected group. And, of course, where the intent to destroy an indigenous people physically or biologically is established, the causing of serious mental harm under Article 2, paragraph (b), or the forcible transfer of children under paragraph (e) would amount to genocide. Establishing that intent, in conjunction with the education policies described above, would, however, in any case often be extremely difficult to do.

IV. Crimes against Humanity

53. The term ‘crime against humanity’ was first used in the modern context in respect of the massacres of Ottoman Turkey’s Armenians from 1915. Although long associated with armed conflict, this is no longer the case; it is now accepted that they can also be perpetrated in times of peace (see Cassese, 2003: 74, Schabas, 2001: 37). The most complete description of what constitute “crimes against humanity” is now set out in the *Rome Statute of the International Criminal Court* of 17 July, 1998 (the “ICC Statute”). Article 7, paragraph 1 of the ICC Statute defines “crime against humanity” as any of a number of enumerated acts, “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”.

54. In the Elements of Crimes which are to assist the court in the application of Article 7 and other articles, Article 7, Introduction, paragraph 3 provides that “attack directed against a civilian population” is understood to mean a course of conduct involving the multiple commission of acts enumerated in Article 7, paragraph 1, “against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack”. In order for there to be such a policy, the State or organization must actively promote or encourage the attack. Significantly, the acts “need not constitute a military attack”.

55. The acts which can constitute a crime against humanity will be considered momentarily. However, it is certainly possible that the forms of education of indigenous children described in the first part of this paper meet the foregoing requirements. In particular, assuming for the moment that such forms of education are covered by acts set out in Article 7, paragraph 1, they are certainly committed on a multiple basis, and it would be difficult to say that, since education is generally organised by the State, they are not “in furtherance of a State policy” to commit them. The acts must be “widespread or

¹⁷ See, for example, *Prosecutor v. Blagojević* (Case No. IT-02-60-T), Judgment of 17 January, 2005, para. 660, or *Prosecutor v. Krstić*, (Case No. IT-98-33-A), Judgment of 2 August, 2001, para. 580.

systematic”, and it would again be difficult to argue that an entire system of education did not meet this description.

56. But what of the acts enumerated in Article 7, paragraph 1? Included are murder (subparagraph (a)), extermination (b), enslavement (c), torture (f), rape and various other forms of sexual violence (g), enforced disappearance of persons (i), and the crime of apartheid (j). There are two enumerated acts that are of particular relevance to this paper. The first of these is set out in subparagraph (h), the act of “persecution against any identifiable group or collectivity on . . . racial, national, ethnic, cultural, religious, . . . or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in paragraph 1 or any crime within the jurisdiction of the court.” Article 7, paragraph 2, subparagraph (g) provides that “persecution” means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity. The ICC Statute does not specify what are “fundamental rights”; however, a tribunal applying the concept would surely look to major international human rights instruments. In our first Expert paper (Maggà et al., 2004), the nature of indigenous children’s education rights, particularly in respect of mother tongue medium education, was explored, and the degree to which the forms of education described in this paper and that earlier paper amounted to a violation of such rights was elucidated. We suggest that these education rights are “fundamental rights” within the sense of the ICC Statute. As discussed above, the consequences resulting from the deprivation of these fundamental rights are severe. As also discussed above, the choice of such policies is intentional. It therefore follows that there is at least an arguable case that such State educational policies could be considered to be “persecution” within the meaning of the ICC Statute.

57. The second sort of act enumerated in Article 7, paragraph 1 of the ICC Statute that may be relevant here is that set out in subparagraph (k), effectively a catch-all provision which refers to “other inhumane acts of a similar character [to those set out in paragraph 1] intentionally causing great suffering, or serious injury to body or to *mental* or physical health”. As also discussed in the first part of this paper, the sorts of education often suffered by indigenous children do indeed result in serious, often permanent injury to mental health; as noted, such education also tends to adversely affect longer-term physical health of those who have suffered it. While we are of the view that the forms of education described earlier involved a violation of fundamental rights, it is also difficult, in our view, not to conclude that the sorts of mental and physical suffering induced by such education also constitute “inhumane acts”.

V. Conclusions

58. It is clear that the various forms of subtractive education to which indigenous children have been and continue to be subject results in very serious and often permanent harmful mental and physical consequences. Such forms of education are often accompanied by acts of violence which produce both immediate and long-term harmful consequences. As was discussed in our first Expert paper, such education is now at odds with and in clear violation of a range of human rights standards, and in our view amount to ongoing violations of fundamental rights. Such education is also highly

assimilationist, and as such is at odds with contemporary standards of minority protection, which standards themselves are now a fundamental part of international human rights standards.

59. In this paper, we have considered the extent to which such education can be considered to amount to genocide or crimes against humanity. In spite of the narrowing of the Genocide Convention during the process of its negotiation and conclusion, it still makes reference to acts which, we have argued, certainly describe the experience of indigenous children subjected to various forms of subtractive education. In particular, we have argued that such education can result in “serious mental harm”, is often accompanied by “serious bodily harm”, and can involve the forcible transfer of indigenous children to another group. Thus far, however, the interpretation of the mental element that is also necessary in order for these acts to amount to genocide has been limited to the intent to accomplish the physical or biological destruction of the group, and this has so far posed significant obstacles to a genocide claim in respect of the forms of education considered here. In our view, the concept of “crime against humanity” is less restrictive, and can also be applied to these forms of education. The precise legal content of the categories of crime that are most relevant in the context of subtractive education is still, however, unclear, making it difficult to be categorical about their application. In our view, the destructive consequences of subtractive education, not only for indigenous languages and cultures but also in terms of the lives of indigenous people/s, are now clear—indeed, they have been clear for some time. International criminal law, like all law, evolves as our understanding of the experience to which it applies develops. The concept of “crimes against humanity” provides a good basis for an evolution that will ultimately lead to the stigmatisation through law of subtractive educational practices and policies.

60. We recommend that the UN Permanent Forum on Indigenous Issues considers what action it might take on this basis.



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**Implementation of the recommendations on the six mandated areas
of the Permanent Forum and on the Millennium Development Goals**

Report of the secretariat of the Permanent Forum on Indigenous Issues on ongoing priorities and themes

Summary

The present report provides an overview of developments under the mandated areas of the Permanent Forum on Indigenous Issues since its sixth session. This report also highlights the relevant information that has been gleaned from the contributions of the United Nations system and activities of the members of the Forum and its secretariat.

* E/C.19/2008/1.



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I. Introduction

1. Since the holding of the sixth session of the Permanent Forum on Indigenous Issues, a variety of issues and activities have been highlighted in regard to indigenous peoples by the intergovernmental system, Governments, indigenous peoples' organizations and civil society at large, and members of the Permanent Forum and its secretariat. In October 2007, the Department of Economic and Social Affairs of the United Nations Secretariat invited written contributions regarding outstanding or follow-up matters arising from the sixth session and matters related to the preparations for the seventh session of the Permanent Forum.

2. As at 7 February 2008, written submissions had been received from 20 United Nations and other intergovernmental entities, namely, the Department of Economic and Social Affairs, the International Organization for Migration (IOM), the secretariat of the Convention on Biological Diversity, the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA), the United Nations Development Fund for Women (UNIFEM), the United Nations Human Settlements Programme (UN-Habitat), the Food and Agriculture Organization of the United Nations (FAO), the International Labour Organization (ILO), the United Nations Institute for Training and Research (UNITAR), the United Nations Environment Programme (UNEP), the World Intellectual Property Organization (WIPO), the International Fund for Agricultural Development (IFAD), the World Food Programme (WFP), the Asian Development Bank, the Council of Europe, the Department of Public Information of the United Nations Secretariat, the Inter-American Development Bank and the Office for the Coordination of Humanitarian Affairs of the United Nations Secretariat, the last mentioned having reported for the first time. The Governments of Bolivia, Colombia, Ecuador, Mexico, Peru, the Russian Federation, Spain and Venezuela (Bolivarian Republic of) and non-governmental organizations in consultative status with the Economic and Social Council, also submitted reports.

Obstacles

3. A number of reports States and agencies, funds and programmes identified obstacles in the implementation of norms and policies on indigenous peoples' issues.¹ They included: lack of human and financial resources for the implementation of programmes; weak political will; and changes in government institutions. It was also pointed out that, as the implementation of the Permanent Forum's recommendations had required more than one year, reports to the Forum could not reflect all the progress at once.

4. ILO pointed out that improving the interactive dialogue between United Nations organizations and the members of the Permanent Forum before, during and after the annual sessions of the Forum would serve to ensure that the recommendations of the Forum better reflected the substantive contributions of those organizations, and that such recommendations were technically accurate and within the mandate of agencies, so as to ensure that they were given due respect and

¹ Some obstacles and facilitating factors had been identified in previous years as well and were summarized in the secretariat's reports.

effectively acted upon. ILO made a number of suggestions in that regard (see E/C.19/2008/4/Add.5).

Facilitating factors

5. Facilitating factors identified included: national laws and policies on indigenous issues; key governmental and civil society partners and indigenous networks; and positive political conditions in many countries, especially South America, that had provided important opportunities for advancing the agenda.

II. Developments under the mandated areas and special themes of the Permanent Forum, including the Millennium Development Goals

A. Economic and social development

6. The Government of the Russian Federation, the Governor of Yamal-Nenets Autonomous Region, the Public Chamber of the Russian Federation and the Russian Association of Indigenous Peoples of the North, Siberia and the Far East (RAIPON) held the International Workshop on Perspectives of Relationships between Indigenous Peoples and Industrial Companies in Salekhard, Yamal-Nenets Autonomous Region, Russian Federation, on 2 and 3 July 2007. This international meeting was attended by 13 members of the Permanent Forum and seven indigenous experts from the Forum's seven sociocultural regions, as well as representatives of the government of Yamal Nenets, the private sector and non-governmental organizations. The Workshop concluded that, despite some modest progress made in terms of awareness among States and industrial companies of the complex and serious problems faced by indigenous peoples as a result of their interface with these companies, there was still a long way to go with respect to strengthening primary responsibility and accountability of States as well as establishing corporate social responsibility (see E/C.19/2008/5/Add.6).

Development account

7. The Development Account project entitled "Engaging indigenous women: local government capacity-building through new technologies in Latin America" is in its implementation stage. Assessments and preparatory work were completed in January 2008, and the first workshops were scheduled to be held in February 2008. These workshops will bring together indigenous women from across the three participating countries (Bolivia, Ecuador and Peru) in addition to other relevant actors from government and international organizations. Building on the results of the workshops, the participating indigenous organizations will begin the production of relevant materials for indigenous women in the three countries. It is expected that the production of materials will take place throughout 2008.

Review of country reports on the Millennium Development Goals

8. In response to a recommendation of the Permanent Forum at its fifth session,² the Forum secretariat undertook its third desk review of country reports on the Millennium Development Goals to analyse how they had addressed indigenous issues. The desk review underscores the importance of the recommendations of the Forum at its 2005 and 2006 sessions where it undertook a specific examination of Millennium Development Goals and indigenous peoples and highlighted elements for their greater inclusion.³ A total of 10 national reports were reviewed in 2007 from a broad range of countries in which there are indigenous peoples.⁴ The country reports were examined in order to identify elements of inclusion of indigenous issues, general trends and progress achieved, as well as opportunities and challenges for further integrating elements for inclusion of indigenous issues into the Millennium Development Goal process. There was scant explicit reference made in the reports to indigenous peoples. The current review has built upon the conclusions of previous reviews.⁵

9. Conclusions and recommendations of the review included the following:

(a) Twenty per cent of the Millennium Development Goal reports reviewed sufficiently included indigenous peoples by consistently reporting on their situation (Nepal and Viet Nam) and another 50 per cent addressed indigenous issues to varying degrees (Guyana, Myanmar, the Russian Federation, Suriname and Thailand), while the remaining 30 per cent did not include any mention of indigenous peoples (Kenya, South Africa and Zimbabwe); and none of the country reports under review indicated that they had been prepared in consultation with indigenous peoples' organizations;

(b) None of the Millennium Development Goal reports provided disaggregated data for indigenous peoples in a consistent manner, for every goal. **Guided by the recommendations of the Forum at its fourth and fifth sessions (see note 3 above), the current review reiterates that improved disaggregation of data on indigenous peoples is necessary to effectively monitor progress towards Millennium Development Goal achievement, and that this should be a key priority for Governments and the United Nations system;**

(c) The two most positive examples of reporting on indigenous peoples (Nepal and Viet Nam) consistently included data on indigenous peoples in the

² See *Official Records of the Economic and Social Council, 2006, Supplement No. 23 (E/2006/43)*, sect. B, para. 152.

³ At its fourth session, in 2005, the Forum addressed Millennium Development Goals 1 and 2 within the context of indigenous peoples' issues (see *Official Records of the Economic and Social Council, 2005, Supplement No. 23 (E/2005/43)*, chap. I, sect. B, paras. 4-57). The fifth session of the Forum was devoted to the special theme "The Millennium Development Goals and indigenous peoples: redefining the goals" (*ibid.*, 2006, *Supplement No. 23 (E/2006/43)*, chap. I, sect. B, paras. 4-43).

⁴ The reports reviewed are the latest available for each of the following countries, ranging in date of publication from 2004 to 2007: Guyana (2007), Kenya (2005), Myanmar (2005), Nepal (2005), Russian Federation (2005), South Africa (2005), Suriname (2005), Thailand (2004), Viet Nam (2005), and Zimbabwe (2004). The reports are available on the United Nations Development Group website at www.undg.org.

⁵ Two previous desk reviews are available through the Forum's website, at <http://www.un.org/esa/socdev/unpfii/en/mdgs.html>.

context of the Millennium Development Goals and recognized that certain groups, including indigenous peoples, are the most disadvantaged and marginalized in the country; at times, they made mention of specific mechanisms or policies that targeted these communities. Other reports (such as that of the Russian Federation) included examples of best practices or referred to social challenges faced by indigenous peoples, but the reporting was not consistent across the Millennium Development Goals;

(d) While most of the reports included at least some mention of disproportionate development, they were more likely to describe the situation by providing data and examples in the context of provincial, regional, or rural/urban disparities. **In these descriptions of disproportionate development, the reports often failed to explicitly acknowledge when the regions or areas that were disproportionately affected, corresponded to the areas where indigenous peoples lived. Such omissions are problematic and do not conduce to the provision of a clear picture of the situation of indigenous peoples;**

(e) When the reports did mention indigenous peoples, they did so most often in the context of poverty, education and mortality rates (Millennium Development Goals 1, 2, 4 and 6). They usually mentioned that indigenous peoples lived in remote areas that lacked access to the same services available to other groups, and were thus disadvantaged or were considered vulnerable groups. In the reports where the data allowed for some analysis in respect of indigenous peoples and mortality rates (Guyana, Myanmar, Nepal, the Russian Federation, Thailand and Viet Nam), mortality rates for indigenous peoples were exhibited to be significantly higher than the national averages;

(f) The situation of indigenous women (in the context of Millennium Development Goals 3 and 5) was rarely mentioned. The only report that made more than a passing reference to indigenous peoples in the context of those Goals was that of Viet Nam, which discussed the social challenges in respect of achieving gender parity for indigenous women;

(g) Several of the reports (Guyana, Nepal and the Russian Federation) included at least some mention of indigenous peoples in the context of environmental stability (Millennium Development Goal 7). The report by Nepal, in particular, highlighted the positive role of indigenous peoples in respect of environmental sustainability, provided an example of their role in land-use management, and recommended future action to secure access and benefit-sharing with respect to genetic resources. None of the reports mentioned indigenous peoples in the context of establishing a global partnership for development (Millennium Development Goal 8);

(h) **In future reporting, countries should undertake to include indigenous peoples in the context of meeting each and every Goal. Guided by the United Nations Declaration on the Rights of Indigenous Peoples (General Assembly resolution 61/295 of 13 September 2007, annex), it is recommended that the free, prior and informed consent of indigenous peoples should be sought in all development initiatives that focus upon improving their lives, and countries should comment on this matter clearly in their Millennium Development Goal reports;**

(i) Finally, the current review reiterates the previous recommendation of similar reviews, as follows: Governments should (i) include indigenous peoples in the context of the overall report, including its planning; (ii) include indigenous peoples in the context of meeting each specific Goal; (iii) include indigenous peoples' effective participation in the planning process of future interventions, as well as in the implementation, monitoring and evaluation of programmes and projects that will directly or indirectly affect them; and (iv) improve the collection and disaggregation of data regarding indigenous peoples. Other important developments in this area are reported in section H below.

B. Environment

Environment and traditional knowledge

10. The Permanent Forum's theme for the seventh session is "Climate change, bio-cultural diversity and livelihoods: the stewardship role of indigenous peoples and new challenges". Climate change is considered to be a critical global challenge and recent events have demonstrated the world's growing vulnerability to climate change. For indigenous peoples, climate change is already a reality and poses threats and dangers to the survival of their communities. Climate change is also a major focus for the United Nations including the Department of Economic and Social Affairs. Climate change is not just an environmental issue. It also has serious economic and social implications. Climate change is, fundamentally, a sustainable development challenge, that should be linked more firmly to the broader development agenda, including to poverty reduction and other internationally agreed development goals.

11. There are a number of United Nations organizations dealing with the issue of indigenous peoples and climate change. The annual meeting of the Inter-Agency Support Group on Indigenous Peoples' Issues (IASG), held in Montreal, Canada, in September 2007 and hosted by the secretariat of the Convention on Biological Diversity, focused on the theme "Climate change and indigenous peoples". The members of the Support Group prepared a collated paper on indigenous peoples and climate change (E/C.19/2008/CRP.2) for the Permanent Forum's seventh session.

12. At the 60th Annual DPI/NGO Conference, entitled "Climate Change: How It Impacts Us All", held at United Nations Headquarters from 5 to 7 September 2007, Vicki Tauli-Corpuz and Wilton Littlechild, Permanent Forum members, made statements at a morning round table on indigenous peoples, culture and traditional knowledge. They pointed out that indigenous peoples were facing many challenges in respect of climate change such as the impact of monocropping plantations, mass migration, and the effects on water quality, food security, human health and infrastructure. Mr. Littlechild made a plea to the international community to take into account indigenous peoples' role and their traditional knowledge in future capacity-building and adaptation programmes. Indigenous peoples from the Pacific, Africa, the Russian Federation and Latin America gave powerful presentations (DPI/2466).

13. During the United Nations Climate Change Conference, held in Bali, Indonesia, from 3 to 14 December 2007, Ms. Tauli-Corpuz made statements at various events. The main statement was made during the launch of the World Bank Forest Carbon Partnership Facility, at which Ms. Tauli-Corpuz pointed out that

tropical and subtropical forests, which constitute the focus of the Facility, are home to approximately 160 million indigenous peoples who remain in very vulnerable situations because most States still do not recognize indigenous peoples' rights to those forests and the resources found therein. She also stated that, while the Facility could represent a positive undertaking, indigenous peoples were very apprehensive because of their negative experiences with similar initiatives.

14. Environmental damage such as pollution and toxic dumping on indigenous peoples' lands was the theme of an international expert workshop entitled "Indigenous peoples and protection of the environment", held in Khabarovsk, the Russian Federation, from 27 to 29 August 2007.⁶ Permanent Forum member Pavel Sulyandziga served as Chair of the meeting and Forum member Michael Dodson as Rapporteur.

15. The international regime on access and benefit-sharing continues to be an important area of development for the Permanent Forum. At the 5th meeting of the Ad Hoc Open-ended Working Group on Access and Benefit Sharing of the Convention on Biological Diversity, held in Montreal, Canada, from 8 to 12 October 2007, further discussions were undertaken on how an international regime on access and benefit-sharing could set the rules on how benefits from the utilization of genetic resources and associated traditional knowledge might be fairly and equitably shared between the provider countries and indigenous and local communities which are the holders of the knowledge, as well as companies and research institutions. Directly relevant to the discussions on issues pertaining to genetic resources and traditional knowledge is article 31 of the United Nations Declaration on the Rights of Indigenous Peoples, which is expected to provide a basis for the negotiations on an access and benefit-sharing regime.

16. Three other important reports, two prepared for the sixth session of the Permanent Forum, will be considered under items of the agenda for the seventh session:

(a) The paper entitled "Oil palm and other commercial tree plantations, monocropping: impacts on indigenous peoples' land tenure and resource management systems and livelihoods" (E/C.19/2007/CRP.6), prepared by the Special Rapporteurs on the subject, Victoria Tauli-Corpuz and Parshuram Tamang. At the sixth session of the Forum, it was recommended that further analysis be undertaken on this important issue;

(b) The concept paper on indigenous traditional knowledge (E/C.19/2007/10), and prepared by the Special Rapporteur on the subject, Michael Dodson. The Permanent Forum recommended that the paper be widely circulated and that there be a call for written submission on how indigenous traditional knowledge could be protected at the international level by utilizing customary law. Mr. Dodson, as Special Rapporteur, was requested to present a follow-up study on indigenous traditional knowledge (see E/2007/43, chap. I, sect. B, para. 145);

(c) The theme of the meeting of the Inter-Agency Support Group on Indigenous Peoples' Issues held in Montreal, Canada, from 17 to 19 September 2007, was "climate change and indigenous peoples". A number of recommendations are contained in the report of the meeting (E/C.19/2008/6). In addition, the Support

⁶ The report is available at www.un.org/esa/socdev/unpfii.

Group has prepared a special inter-agency collated paper on indigenous peoples and climate change (E/C.19/2008/CRP.2).

17. There are two other meetings on climate change that include the Forum secretariat and Forum members:

(a) The conference on indigenous peoples and climate change organized by the International Work Group for Indigenous Affairs, Copenhagen, 21 and 22 February 2008;

(b) The joint United Nations University (UNU) Institute of Advanced Studies, Forum secretariat and North Australian Indigenous Land and Sea Management Alliance International Expert Group Meeting on Indigenous Peoples and Climate Change, to be held in Darwin, Australia, from 2 to 4 April 2008.

18. The attention of the Permanent Forum is drawn to the recommendations of the Inter-Agency Support Group on collated paper on indigenous peoples and climate change. It is also suggested that the Permanent Forum might wish to adopt the following recommendation:

That regional contingency plans be developed to accommodate environmental refugees in a manner that maintains their national and indigenous identity and cultural integrity.

C. Education

19. Overall, access to education still remains a major issue for indigenous people throughout the world. There are some good examples of indigenous children's access to education which were reported to the Permanent Forum by organizations, including UNICEF. Organizations like UNFPA, in partnership with IFAD, continues to promote the education of indigenous girls, negotiating with teachers and the local school system their right not only to attend school, but also to be able to wear their own traditional dress.

20. At its sixth session, the Permanent Forum recommended that a comparative case study be undertaken on the role of boarding schools for indigenous children, which has attracted considerable international attention (E/2007/43, chap. I, sect. B, para. 70). The Forum acknowledged that in some countries, boarding schools has had a very negative, even tragic, impact on the families, cultures and identities of indigenous peoples but that in other regions of the world, attending boarding schools was considered an important step for the successful social integration and education of indigenous children. Hence, the situation is complex. The Forum secretariat is preparing a background paper on this subject, to be made available at the Forum's seventh session.

D. Health

21. Like indigenous peoples' access to education, their access to health services remains a critical issue in both the developing and the developed world. The World Health Organization (WHO) is mandated to devote special attention to the issue of indigenous peoples' health. The Permanent Forum secretariat worked together with WHO to produce a fact sheet on indigenous peoples' health. The fact sheet is now

available in English, French and Spanish on both the WHO and Forum websites. There is a further possibility that a closer relationship will develop between the Forum and WHO as well as other United Nations organizations in order to implement the workplans of WHO that address the critical area of indigenous peoples' health. In their reports, organizations provided information regarding their work in indigenous communities on reproductive health, prevention of sexual violence and steps taken towards recognizing the importance of indigenous healers (see E/C.19/2008/4/Add.1 and Add.6).

E. Culture

22. The General Assembly, in its resolution 61/266 of 16 May 2007, proclaimed the year 2008 International Year of Languages. Responding to the need for concrete public policies for the protection and promotion of indigenous languages, the Permanent Forum, at its sixth session, recommended to the Economic and Social Council the holding of an international expert group meeting on indigenous languages (E/2007/43, chap. I, sect. B, para. 72). Pursuant to the recommendation of the Forum, the Council, by its decision 2007/244 of 25 July 2007, decided to authorize such a meeting. The expert group meeting, which was held at United Nations Headquarters from 8 to 10 January 2008, was attended by the following Forum members: Victoria Tauli-Corpuz, Hassan Id Balkassm, Carlos Mamani Condori, Paimaneh Hasteh and Tonya Gonella Frichner, as well as seven indigenous experts, and observers for United Nations organizations, States, non-governmental organizations and indigenous peoples' organizations. The meeting adopted significant recommendations brought to the attention of the Forum in the report of the meeting (E/C.19/2008/3).

F. Human rights

23. The most important development in the field of indigenous peoples' rights following the sixth session of the Permanent Forum was the historic adoption by the General Assembly, in its resolution 61/295 of 13 September 2007, of the United Nations Declaration on the Rights of Indigenous Peoples.⁷ Various Forum members engaged actively in advocacy for the adoption of the Declaration, following the Forum's recommendations in that regard. Statements on the adoption of the Declaration by the Chairperson of the Forum, the Secretary-General, the Under-Secretary-General for Economic and Social Affairs, the United Nations High Commissioner for Human Rights and other high-level officials in the United Nations system may be accessed at the website of the Forum secretariat (www.un.org/esa/socdev/unpfii).

24. Article 42 of the Declaration specifically mentions the Permanent Forum, as follows:

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States

⁷ General Assembly resolution 61/295 was adopted by a recorded vote of 143 to 4, with 11 abstentions.

shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

At its sixth session, the Permanent Forum mandated a study, to be conducted by Ida Nicolaisen and Wilton Littlechild, on the structures, procedures and mechanisms that currently exist and that might be established to effectively address the human rights situation of indigenous peoples and to arrange for indigenous representation and inclusion in such structures, procedures and mechanisms (see E/2007/43, chap. I, sect. B, para. 150). The study (E/C.19/2008/2), *inter alia*, makes recommendations on how the Forum may approach its new role under the Declaration. The Forum is expected to discuss this issue at its seventh session.

25. Three members of the Permanent Forum, Hassan Id Bakassm, Wilton Littlechild and Ida Nicolaisen, participated at the informal consultation on the new mechanism on indigenous peoples' rights at the Human Rights Council held in Geneva in December 2007. By Council resolution 6/36 of 14 December 2007, the Council determined that the Expert Mechanism on the Rights of Indigenous Peoples would replace the Working Group on Indigenous Populations. The mandate of the Expert Mechanism is to provide the Council with thematic expertise on the rights of indigenous peoples in the manner and form requested by the Council, to assist the Council in the implementation of its mandate.⁸

26. The Inter-Agency Support Group on Indigenous Peoples' Issues in the Latin American and Caribbean Region held a meeting with the Indigenous Consultative Group for the region in Quito on 5 and 6 November 2007, to discuss, *inter alia*, the dissemination of the United Nations Declaration on the Rights of Indigenous Peoples in the region. The report of the meeting, which was convened by UNICEF in cooperation with the Forum secretariat and the Office of the United Nations High Commissioner for Human Rights, is posted on the Forum website (www.un.org/esa/socdev/unpfii).

27. The principle of free, prior and informed consent was addressed in the reports of Colombia, the Bolivarian Republic of Venezuela and ILO, providing information on laws adopted and activities carried out that follow this important principle. It is also a major principle for policies and programmes on adaptation and mitigation efforts connected with climate change, including the new programme aimed at reducing emissions from deforestation and degradation (REDD).

28. In response to a recommendation of the Permanent Forum at its sixth session (E/2006/43, chap. I, sect. B, para. 34), the Inter-Agency Support Group will hold a special meeting on the Declaration in February 2008 in Geneva, to discuss means of inter-agency follow-up and support for the implementation of the Declaration.

29. Despite positive institutional developments in the human rights area, allegations of violations of human rights of indigenous peoples and individuals continued to be received by the Forum secretariat. However, a novel and welcome approach has been introduced in the context of efforts to mainstream indigenous issues. At the sixty-second session of the General Assembly, and for the first time, no fewer than 11 resolutions and 2 decisions were adopted that included references

⁸ See the draft report of the Council on its resumed sixth session, held from 10 to 14 December 2007 (A/HRC/6/L.11/Add.1), chap. I, sect. A.

to the United Nations Declaration on the Rights of Indigenous Peoples, or to indigenous peoples, or to both.

G. Awareness-raising, information and production of material and events

30. The Permanent Forum secretariat organized or co-organized more than 15 events including multi-stakeholder events in 2007. In addition, during the Forum's sixth session, the Forum secretariat coordinated more than 60 side events, organized by indigenous peoples organizations, non-governmental organizations and United Nations organizations.

31. At the commemoration of the International Day of the World's Indigenous People at United Nations Headquarters on 9 August 2007, a panel discussion was organized entitled "Honouring indigenous youth and languages", as well as a cultural event. Messages for the Day were issued by the Secretary-General, the Under-Secretary-General for Economic and Social Affairs, the Coordinator of the Second International Decade of the World's Indigenous People, and the Chairperson of the Forum, among others.

32. As part of the promotion of the presence and visibility of indigenous peoples during the adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the General Assembly, the Permanent Forum secretariat in cooperation with the Department of Public Information of the United Nations Secretariat organized the following:

(a) A press conference on "The Declaration on the Rights of Indigenous Peoples: where do we stand?", to discuss the latest developments regarding the United Nations Declaration, including the facilitator's report to the President of the General Assembly;

(b) A media strategy which included press interviews with indigenous leaders and members of the Permanent Forum; media advisories were sent to United Nations information centres and outside media;

(c) Appearance of indigenous leaders and representatives of Member States at the media stakeout in the General Assembly Hall, after the adoption of the Declaration on 13 September 2007.

33. Major international wire services including several national wire services covered the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, among them Reuters, Associated Press (AP), Agence France-Presse (AFP), Kyodo, Australian Associated Press (AAP), Canadian Press, BBC News, *The New York Times*, *Sydney Morning Herald*, and *The Australian*, as well as the national broadcaster ABC, among others. Several interviews were conducted by Spanish media such as CNN en Español and EFE, as well as Saami Radio.

34. Government officials were quoted in articles including the Foreign Minister of Bolivia, David Choquehuanca, who spoke at the media stakeout; the Ambassador of New Zealand; and officials from the Permanent Missions of Benin, Japan and the United States of America to the United Nations.

Materials produced

35. The Permanent Forum secretariat produces four internal newsletters annually which are addressed to Forum members and four public newsletters in English. Translation of the newsletter into other languages is necessary in order to reach diverse audiences, but resource constraints have not yet made this possible. The newsletter highlights the activities of the Forum, its secretariat and some news from field offices. The public newsletter is available online.⁹

36. The Permanent Forum secretariat has released various information and specialist materials and publications which can also be found on its website.¹⁰ Some of the recent publications include:

(a) Brochure on the Second International Decade of the World's Indigenous People: This brochure contains information on the goal and objectives of the Second Decade as well as information on the Trust Fund for the Second Decade. The brochure is produced in English and Spanish and will be available in other United Nations languages at the end of 2008;

(b) New brochure on the United Nations Permanent Forum on Indigenous Issues: This brochure contains general information about the Permanent Forum's mandate, and the history of indigenous peoples at the United Nations, among other important information, and is available in English, Spanish, French and Russian;

(c) "Handbook for Participants", those who attend the *sessions of the Permanent Forum*: This is a useful guide, especially for those who wish to attend the Forum sessions. It contains practical information on the Forum and on activities centring around the session such as the process for accreditation, the various indigenous peoples' caucuses, the speakers list, writing statements and logistic information. The Handbook is available in English, French, Russian and Spanish;

(d) "Good Practices on Indigenous Peoples' Development": This compilation of good practices is the result of detailed case studies commissioned by the secretariat of the Permanent Forum in cooperation with Tebtebba Foundation, an indigenous peoples' non-governmental organization based in the Philippines. The case studies are those of International Fund for Agricultural Development (IFAD) fieldwork in Latin America and Asia, where indigenous peoples were project beneficiaries as well as project reviewers and evaluators;

(e) "Desk Reviews of select Millennium Development Goal Reports as per Indigenous Issues": No. 1 (2006); No. 2 (2007); and No. 3 (2008): These desk reviews provide an analysis of the extent to which indigenous peoples' issues are included and addressed within the context of the Millennium Development Goal reports produced by States that have indigenous populations;

(f) "Integration of Indigenous Peoples' Perspectives in Country Development Processes": These annual desk reviews, with the subtitle "Review of Selected Common Country Assessments (CCAs) and United Nations Development Assistance Frameworks (UNDAFs) in Various Countries" (Nos. 1 (2006), 2 (2007) and 3 (2008)), are part of the effort to promote the implementation of the Permanent Forum's recommendations, with a view to identifying challenges faced by

⁹ <http://www.un.org/esa/socdev/unpfii/en/newsletter.html>.

¹⁰ <http://www.un.org/esa/socdev/unpfii/en/publications.html>.

indigenous peoples at country level. It is also aimed at strengthening the United Nations system through better consideration of indigenous issues in United Nations analytical and programmatic instruments, particularly at country level;

(g) "Desk Review of Select Resident Coordinator Reports: 2001-2003": This analysis explores the link between Common Country Assessment/United Nations Development Assistance Framework (CCA/UNDAF) and resident coordinator reports and to what extent indigenous issues are covered. This review is part of Permanent Forum secretariat efforts to inform the Permanent Forum, indigenous peoples, States and the United Nations system, including the United Nations Development Group, on progress made towards the integration of indigenous peoples' issues in the United Nations development work at the field level;

(h) "A Resource Kit on Indigenous Peoples' Issues": addressed mainly to United Nations country teams, this will be available within the first half of 2008.

37. The Permanent Forum secretariat website is maintained in English, French, Russian and Spanish. It continues to be an important information and communication tool on the Forum and other United Nations-related activities. The website continues to grow every year, although the translation and updating of contents in official languages remain a challenge. One of the highlights of the website is the Permanent Forum's recommendations database, which is open to the public and allows the user to easily follow the progress of implementation of all Forum recommendations. In addition, the website contains important pages on the United Nations Declaration on the Rights of Indigenous Peoples, the new members of the Forum for the period 2008-2010, Forum Special Rapporteurs, the Second International Decade of the World's Indigenous People and information regarding sources of funding for indigenous peoples, among others.

38. The Permanent Forum secretariat has responded to a recommendation made by the Forum at its first session for the production of a publication on the state of the world's indigenous people (see *Official Records of the Economic and Social Council, 2002, Supplement No. 23 (E/2002/43/Rev.1 and Corr.1)*, chap. I, sect. B, para. 8). Seven indigenous experts, one from each of the seven sociocultural regions, are contributing chapters to the publication. The chapters focus on those areas that the Forum is mandated to discuss. The publication is intended to be an awareness-raising tool which provides a general overview of some of the issues that are most relevant to indigenous peoples. *The State of the World's Indigenous Peoples* is due to be published in late 2008.

H. Promotion of integration and coordination of indigenous issues

39. Considerable and increased inter-agency work on indigenous peoples is conducted through the Inter-Agency Support Group on Indigenous Peoples' Issues (IASG), the United Nations Development Group and the Inter-Agency Network on Gender and Women's Equality. In addition, the Intra-Departmental Task Force on Indigenous Issues of the Department of Economic and Social Affairs has continued to bring together relevant Divisions of the Department to discuss common actions in regard to indigenous issues. The Department's Division for Public Administration and Development Management, in cooperation with the Forum secretariat, is promoting an interdivisional project on issues related to institutional capacity of local governments led by indigenous authorities.

40. According to organizations, collection and disaggregation of data continue to be a challenge in terms of addressing the situation of indigenous peoples, whose realities are often hidden beneath national averages. Some positive development have been reported, however, by UNFPA in this area, including work undertaken in cooperation with the Economic Commission for Latin America and the Caribbean (ECLAC) in the preparation of the 2010 censuses. Similarly, the outline by the United Nations Statistics Division of its efforts in respect of the preparation of the next censuses could give rise to some optimism that indigenous peoples and their realities may be better reflected in the outcomes of 2010.

Inter-Agency Support Group on Indigenous Peoples' Issues

41. The Inter-Agency Support Group on Indigenous Peoples' Issues has continued to support the Permanent Forum since the sixth session. The Support Group has prepared a paper on indigenous peoples and climate change as an input for the seventh session and has played a key role in disseminating the United Nations Declaration on the Rights of Indigenous Peoples throughout the United Nations system. The Group continues to grow and now includes 31 intergovernmental entities, including several United Nations organizations and international financial institutions.

42. As noted above, the annual meeting of the Support Group for 2007 was convened and hosted by the secretariat of the Convention on Biological Diversity in Montreal, Canada, from 17 to 19 September 2007. The meeting, which was attended by representatives from 15 United Nations organizations, multilateral organizations and international financial institutions, as well as 3 members of the Forum (Mr. Id Bakassm, Mr. Littlechild and Ms. Tauli-Corpuz), had "Climate change and indigenous peoples" as its main theme. In addition to the theme, the Support Group discussed the following items: adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the General Assembly, follow-up of the 2006 Support Group meeting, the United Nations Development Group Guidelines on Indigenous Peoples' Issues, coordination of work on indicators of development and well-being, reflection on the sixth session of the Permanent Forum, working methods, and a revision of the Support Group's terms of reference.

43. The meeting of the Support Group provided an excellent opportunity for organizations to share experiences on their work on indigenous issues and plan joint work for the coming year, particularly in light of the adoption of the United Nations Declaration on the Rights of Indigenous Peoples. As noted above, the Support Group decided to prepare a common paper on climate change for the seventh session of the Forum.

United Nations Development Group

44. Since November 2006, the Inter-Agency Support Group on Indigenous Peoples' Issues has been functioning as a task team of the United Nations Development Group under a specific mandate. Over the course of 2007, the United Nations Development Group Task Team on Indigenous Issues drafted the United Nations Development Group Guidelines on Indigenous Peoples' Issues through a concerted team effort. The Guidelines are designed to assist United Nations country teams in integrating and mainstreaming indigenous peoples' issues in United Nations operational activities at country level. The Guidelines entered into force in

February 2008 and constitute a significant development. The Task Team is in the process of producing a plan of action for rolling out the guidelines over the next five years.

I. Indigenous children and youth

45. Organizations such as UNFPA and UNICEF provided information in their reports to the Permanent Forum on their work with indigenous youth and children (E/C.19/2008/4/Add.6 and Add.1, respectively). UNFPA is especially active in promoting education in sexual and reproductive health among indigenous youth and children. UNICEF carries out its work under the Convention on the Rights of the Child¹¹ and promotes early childhood development programmes. Further information can be found in their reports to the Permanent Forum. The reports did not, however, provide enough information on their work in some of the Forum sociocultural regions, such as the Pacific, North America, the Arctic and Central and Eastern Europe, the Russian Federation, Central Asia and Transcaucasia.

46. The secretariat of the Permanent Forum on Indigenous Issues continues to collaborate with the United Nations Youth Programme. During 2007, Forum secretariat contributed a chapter on the Forum for a publication that the United Nations Youth Programme is preparing in order to strengthen youth participation at United Nations meetings. The Forum secretariat also assisted the United Nations Youth Programme in the design of their web page on indigenous youth.

47. *World Youth Report, 2007*,¹² produced by the Department of Economic and Social Affairs and released in December 2007, provides important information on youth in Latin America, Asia and Africa and small island developing States. While the report gives an overall perspective of youth issues, it also provides an indication of what the situation might be for indigenous youth. For example, the East Asia and Pacific regions contribute the largest group of students studying abroad. In regard to employment and income levels in Latin America, youth are worse off today than they were 15 years ago. Also, in developing countries, the group of young people aged 15-19 have the second highest proportion of people living in poverty, after children under age 14 (the poorest segment of society). Finally, youth unemployment continues to be high in most small island developing States, with 1 in every 5 youths unemployed in the Caribbean.¹³ This brief amount of information provides a rather disturbing view of the situation of youth and children and there is much work to be undertaken to obtain further information on the situation of indigenous youth and children.

J. Indigenous women

48. In 2007, a publication entitled *Indigenous Women and the United Nations System*¹⁴ was completed. It includes a compilation of 18 case studies, which were submitted by the secretariat of the Convention on Biological Diversity, FAO, IFAD,

¹¹ United Nations, *Treaty Series*, vol. 1577, No. 27531.

¹² United Nations publication, Sales No. E.07.IV.1.

¹³ http://www.un.org/esa/socdev/unyin/documents/wyr07_fact_sheet_english.pdf.

¹⁴ United Nations publication, Sales No. E.06.I.9.

ILO, UNFPA, UNIFEM and UNDP regarding their work with indigenous women in Africa, Asia and Latin America. The publication was launched during the Permanent Forum's sixth session in May 2007. This collection of case studies will be disseminated widely so that it can serve as a practical tool for future work within the United Nations system and other organizations engaging with indigenous peoples. Language versions of the publication will be available for the Permanent Forum's seventh session; the English and Spanish versions are available on the Forum secretariat website.¹⁵

49. A series of "Briefing Notes on Indigenous Peoples" was launched during the Permanent Forum's sixth session in 2007 on: Gender and Indigenous Peoples (No. 1); Gender and Indigenous Peoples' Economic and Social Development (No. 2); Gender and Indigenous Peoples' Education (No. 3); Gender and Indigenous Peoples' Culture (No. 4); Gender and Indigenous Peoples' Environment (No. 5); and Gender and Indigenous Peoples' Human Rights (No. 6). The material was prepared by the Office of the Special Adviser on Gender Issues and Advancement of Women and the Forum secretariat. The briefing notes (in English) are available on the Forum website.¹⁶

Tenth session of the Regional Conference on Women in Latin America and the Caribbean

50. On 8 August 2007, a side event entitled "Citizenship and rights of indigenous women and Afro descendants" was jointly organized by UNDP, UNIFEM, the International Research and Training Institute for the Advancement of Women (INSTRAW) and the Forum secretariat. Speakers included Otilia Lux de Coti, Forum member; Margarita Antonio, a Miskitu from Nicaragua; and Maria Ines Barbosa, an Afro descendant from Brazil. The side event was moderated by the Forum secretariat. The Regional Conference on Women, which focused on the contribution of women to the economy and social protection, particularly through unpaid work, and on political participation and gender parity, was held from 6 to 9 August 2007 in Quito.

51. During the side event, participants called for implementation of the recommendations of the Forum, resolution 49/7 on indigenous women, adopted by the Commission on the Status of Women¹⁷ at its forty-ninth session on 11 March 2005 and the Declaration of Indigenous Women. References to the United Nations Declaration on the Rights of Indigenous Peoples and the recommendations of the Forum appeared in the Quito Consensus, which is the Governments' final document at the tenth session of the Regional Conference on Women in Latin America and the Caribbean, Quito, 6-9 August 2007.¹⁸

Gender and statistics

52. The staff of the Forum secretariat attended the Eighth International Meeting on Gender Statistics, held from 5 to 7 September 2007 in Aguascalientes, Mexico. The meeting was organized by UNIFEM, ECLAC, the National Institute of Women of

¹⁵ <http://www.un.org/esa/socdev/publications/Indigenous/indwomen07.htm>.

¹⁶ <http://www.un.org/esa/socdev/unpfii/en/publications.html>.

¹⁷ See *Official Records of the Economic and Social Council, 2005, Supplement No. 7 (E/2005/27 and Corr.1)*, chap. I, sect. D.

¹⁸ <http://www.eclac.cl/publicaciones/xml/5/29555/dsc1i.pdf>.

Mexico (Inmujeres), and the National Institute of Statistics, Geography and Computer Sciences of Mexico (INEGI). The Forum secretariat participated in the panel on gender statistics for indigenous population. The panel presented the international framework on indigenous peoples' rights designed to promote indigenous peoples' (especially women's) full participation in the upcoming 2010 round of censuses, pursuant to a recommendation of the Permanent Forum at its sixth session (E/2007/43, chap. I, sect. B, para. 127 (d)).

III. Trust Fund on Indigenous Issues

53. General Assembly resolutions 57/191 of 18 December 2002 and 59/174 of 20 December 2004 had both referred to the Trust Fund on Indigenous Issues, which supports the Forum and projects and programmes undertaken during the Second International Decade of the World's Indigenous People.

54. In 2007, for the funding of general activities related to the Forum, the Trust Fund on Indigenous Issues received contributions from Algeria, Canada, Chile, Colombia, Cyprus, Estonia, Japan, Mexico, Norway and UNICEF. The total amount received was \$158,281. Also, during 2007, the Fund supported travel costs related to participation of 18 Forum members in meetings that were of relevance to the Forum's mandate. These missions provided the opportunity for members to raise awareness and promote integration and coordination of activities relating to indigenous issues.

55. The Fund also supported the provision of translation services during the sixth session of the Forum for in-session documents and the provision of technical services related to special events held in conjunction with the session. In addition, the Fund supported the travel of Rebang Dewan, the child who had won the International Competition on the Permanent Forum's Visual Identifier and was recognized at the opening of the session. The Fund also supported cultural events in connection with the commemoration of the International Day of the World's Indigenous People on 9 August.

56. In 2006, IFAD provided a grant for the Permanent Forum's programme on indigenous peoples and indicators of poverty and well-being. Three regional consultations with indigenous experts were held in Africa, Asia and Latin America. The purpose of these consultations was to capture indicators of indigenous peoples' poverty and well-being and to present a synthesis of the results to the Permanent Forum at its sixth session. Following these consultations, a synthesis paper (E/C.19/2008/9) was prepared, which will be submitted to the Permanent Forum at its seventh session.

57. The Forum secretariat fellowship programme, requested by the Forum, has not yet materialized owing to insufficient funds. Finland has agreed that the funds previously earmarked for fellowships would be devoted to capacity-building activities at field level.

58. With a view to assisting the United Nations country teams in the implementation of the Guidelines, the secretariat of the Permanent Forum, in cooperation with ILO; the secretariat of the Convention on Biological Diversity; UNDP, in particular the UNDP Regional Indigenous Peoples' Programme in Asia; UNICEF; and members of the Inter-Agency Support Group on Indigenous Peoples'

Issues, prepared a "Resource Kit on Partnership with Indigenous Peoples: Supporting Indigenous Issues at Country Level". In 2007, UNICEF provided funds to the Trust Fund to cover the editing costs of the Resource Kit.

59. In connection with the Second International Decade, in 2007, the Trust Fund on Indigenous Issues received contributions from Algeria, Chile, Cyprus, Ecuador, Estonia, Japan, Peru, Luxembourg and Mexico for funding programmes and projects under the Second Decade. The total amount received was \$103,922. The Bureau of the Permanent Forum on Indigenous Issues, acting as the advisory group, held a meeting in May 2007 to review all the project proposals received. At that meeting, 20 projects were approved by the advisory group and endorsed by the Under-Secretary-General for Economic and Social Affairs, acting as the Coordinator of the Second International Decade.

IV. Second International Decade of the World's Indigenous People

60. The adoption of the United Nations Declaration on the Rights of Indigenous Peoples, which was an unfulfilled target of the first Decade, is now a major achievement to be hailed under the Second Decade.

61. A significant development has also taken place recently in respect of bringing United Nations norms and policies related to indigenous peoples closer to the field level. Within the framework of the Second Decade, and following the initiative of the Coordinator of the Second Decade in 2006, the United Nations Development Group (UNDG) adopted, on 1 February 2008, the "Guidelines on Indigenous Peoples' Issues" for United Nations country teams.¹⁹ The Guidelines will be widely disseminated to United Nations country teams and practical measures will follow on the part of the United Nations system (see above).

62. In their reports to the Permanent Forum, most organizations and States pointed out, in general that, although they had not undertaken specific activities under the Decade's framework, their overall work followed the spirit of the goal and objectives of the Programme of Action for the Second International Decade of the World's Indigenous People (see A/60/270, sect. II). Specific analysis is provided by ILO of each of the Decade's five objectives and how the current work and future plans of ILO fit under those objectives (see E/C.19/2008/4/Add.5, sect. IX, paras. 53-61). ILO also reported on a workshop on the Decade in the African region organized with the Office of the United Nations High Commissioner for Human Rights in Brazzaville in November 2007. IFAD reported that it had supported a meeting in Asia on the evaluation of the First Decade.

63. An analysis of the responses received also indicates that the challenges that various actors faced in terms of implementation were bound up with the limited human and financial resources. This is understandable, as the governmental and intergovernmental sectors, indigenous organizations and other parts of civil society have been invited to address the policy recommendations emanating from (a) the Permanent Forum, (b) the General Assembly as far as the Second International Decade is concerned, (c) the Special Rapporteurs, (d) human rights treaty bodies

¹⁹ See www.undg.org and www.un.org/esa/socdev/unpfii.

and (e) the United Nations Declaration on the Rights of Indigenous Peoples. It is important to consider, however, that many of these recommendations and the objectives of the Second International Decade are complementary and are not necessarily about providing more resources, but rather about changing the way of delivering programmes, especially in terms of promoting non-discrimination and inclusion, the full and effective participation of indigenous peoples, and development programmes that are culturally appropriate, as well as establishing strong monitoring mechanisms.²⁰

²⁰ Objectives (i), (ii), (iii) and (v) of the Decade.